

Assembly Bill No. 1488

Passed the Assembly August 29, 2012

Chief Clerk of the Assembly

Passed the Senate August 28, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 56853, 56854, 56856, 56857, and 56862 of the Education Code, to amend Section 7826 of the Family Code, to amend Sections 6253.4, 7578, 8880.5, 11019, 11435.15, 14670.1, 14670.15, 14670.2, 14672.6, 14672.85, 14672.95, 14685, 14977.5, 16304.6, 19583.5, 19583.51, 19849.22, 20046.5, 20047, 20391, 20407, 20407.5, 20408, 20410, 20687.2, 27491, and 70659 of the Government Code, to amend Section 127450 of the Health and Safety Code, to amend Sections 1370.01, 1370.4, 1551.05, and 9001 of the Penal Code, to amend Sections 1461, 1510, 1511, 1821, 1822, 2420, 2541, 2611, 2621, 2682, 2683, 2921, 3088, 3121, 3140, 3602, 3604, 3605, and 3611 of the Probate Code, and to amend Sections 1078, 3003, 4308, 4314, 5304, 5328.15, 5329, 6254, 6603, 6603.5, 6604.1, 6607, 6609.1, 6609.2, 7501, 7501.5, 7509, 8104, 10506, 14105.19, 14105.191, 14110, 15650, and 15658 of the Welfare and Institutions Code, relating to mental health, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 1488, Committee on Budget. State Department of State Hospitals.

Existing law provides for state hospitals for the care, treatment, and education of mentally disordered persons, which are under the jurisdiction of the State Department of State Hospitals.

This bill would make technical, nonsubstantive changes to various provisions of law to, in part, delete obsolete references to the State Department of Mental Health.

This bill would appropriate the sum of \$1,000 from the General Fund to the State Department of State Hospitals for administration.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 56853 of the Education Code is amended to read:

56853. Nothing contained in this chapter shall affect the continued authority of the State Departments of Developmental Services and State Hospitals over educational programs for individuals not eligible for services under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) nor shall it affect the overall responsibility of the state hospitals for the care, treatment, and safety of individuals with exceptional needs under their control. The state hospitals shall continue to render appropriate and necessary developmental services, health related services, psychiatric services, and related services assigned to the state hospitals in the local written agreements, as part of their responsibilities for the care and treatment of state hospital residents.

Health related services shall include services provided by physicians, psychiatrists, psychologists, audiologists, registered nurses, social workers, physical therapists, occupational therapists, psychiatric technicians, and developmental specialists, and shall be the responsibility of the state hospital if the individual with exceptional needs requires these services while in the community program.

SEC. 2. Section 56854 of the Education Code is amended to read:

56854. (a) The Superintendent and the Directors of the State Departments of Developmental Services and State Hospitals shall develop written interagency agreements to carry out the purposes of this chapter.

(b) For each county in which a state hospital is located, the county superintendent of schools, with the approval of the county board of education and the administrator of the state hospital, shall develop a local written agreement to carry out the purposes of this chapter. These agreements shall be reviewed and updated annually and may be modified at any time with the concurrence of both parties to the agreements.

SEC. 3. Section 56856 of the Education Code is amended to read:

56856. In order to provide appropriate special education and related services to an individual residing in a state hospital, the

State Departments of Developmental Services and State Hospitals shall contract with a county superintendent of schools, nonpublic, nonsectarian school, or other agency to provide all or part of the services that the individual's individualized education program indicates should be provided in a program other than on state hospital grounds. A contract between a state hospital and a nonpublic, nonsectarian school shall only be entered into when no appropriate public education program is available.

SEC. 4. Section 56857 of the Education Code is amended to read:

56857. Nothing in this chapter shall preclude the State Departments of Developmental Services and State Hospitals from contracting with a local public education agency, a nonpublic, nonsectarian school, or another agency to provide special education and related services on the state hospital grounds for those pupils whose individualized education programs do not indicate that such education and services should be provided in a program other than on state hospital grounds. These contracts shall not involve funds appropriated for purposes of community-based special education programs provided for state hospital pupils pursuant to this chapter.

SEC. 5. Section 56862 of the Education Code is amended to read:

56862. It is not the intent of this chapter to displace educational and related services personnel already employed by the state hospitals under the administration of the State Department of Developmental Services or the State Department of State Hospitals, or to reduce their salaries or other employee benefits.

The State Department of Developmental Services and the State Department of State Hospitals shall complete an annual review of the impact that implementation of this act will have in reducing the need for positions in state hospitals due to time spent by residents in community education programs and shall submit a report on its findings to the Department of Finance for approval.

SEC. 6. Section 7826 of the Family Code is amended to read:

7826. A proceeding under this part may be brought where both of the following requirements are satisfied:

(a) The child is one whose parent or parents have been declared by a court of competent jurisdiction, wherever situated, to be developmentally disabled or mentally ill.

(b) In the state or country in which the parent or parents reside or are hospitalized, the Director of State Hospitals or the Director of Developmental Services, or their equivalent, if any, and the executive director of the hospital, if any, of which the parent or parents are inmates or patients, certify that the parent or parents so declared to be developmentally disabled or mentally ill will not be capable of supporting or controlling the child in a proper manner.

SEC. 7. Section 6253.4 of the Government Code is amended to read:

6253.4. (a) Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.

The following state and local bodies shall establish written guidelines for accessibility of records. A copy of these guidelines shall be posted in a conspicuous public place at the offices of these bodies, and a copy of the guidelines shall be available upon request free of charge to any person requesting that body's records:

- Department of Motor Vehicles
- Department of Consumer Affairs
- Department of Transportation
- Department of Real Estate
- Department of Corrections
- Department of the Youth Authority
- Department of Justice
- Department of Insurance
- Department of Corporations
- Department of Managed Health Care
- Secretary of State
- State Air Resources Board
- Department of Water Resources
- Department of Parks and Recreation
- San Francisco Bay Conservation and Development Commission
- State Board of Equalization
- State Department of Health Care Services
- Employment Development Department
- State Department of Public Health
- State Department of Social Services
- State Department of State Hospitals
- State Department of Developmental Services

State Department of Alcohol and Drug Abuse
Office of Statewide Health Planning and Development
Public Employees' Retirement System
Teachers' Retirement Board
Department of Industrial Relations
Department of General Services
Department of Veterans Affairs
Public Utilities Commission
California Coastal Commission
State Water Resources Control Board
San Francisco Bay Area Rapid Transit District
All regional water quality control boards
Los Angeles County Air Pollution Control District
Bay Area Air Pollution Control District
Golden Gate Bridge, Highway and Transportation District
Department of Toxic Substances Control
Office of Environmental Health Hazard Assessment

(b) Guidelines and regulations adopted pursuant to this section shall be consistent with all other sections of this chapter and shall reflect the intention of the Legislature to make the records accessible to the public. The guidelines and regulations adopted pursuant to this section shall not operate to limit the hours public records are open for inspection as prescribed in Section 6253.

SEC. 8. Section 7578 of the Government Code is amended to read:

7578. The provision of special education programs and related services for disabled children and youth residing in state hospitals shall be ensured by the State Department of Developmental Services, the State Department of State Hospitals, and the Superintendent of Public Instruction in accordance with Chapter 8 (commencing with Section 56850) of Part 30 of the Education Code.

SEC. 9. Section 8880.5 of the Government Code is amended to read:

8880.5. Allocations for education:

The California State Lottery Education Fund is created within the State Treasury, and is continuously appropriated for carrying out the purposes of this chapter. The Controller shall draw warrants on this fund and distribute them quarterly in the following manner,

provided that the payments specified in subdivisions (a) to (g), inclusive, shall be equal per capita amounts.

(a) (1) Payments shall be made directly to public school districts, including county superintendents of schools, serving kindergarten and grades 1 to 12, inclusive, or any part thereof, on the basis of an equal amount for each unit of average daily attendance, as defined by law and adjusted pursuant to subdivision (l).

(2) For purposes of this paragraph, in each of the 2008–09, 2009–10, 2010–11, 2011–12, and 2012–13 fiscal years, the number of units of average daily attendance in each of those fiscal years for programs for public school districts, including county superintendents of schools, serving kindergarten and grades 1 to 12, inclusive, shall include the same amount of average daily attendance for classes for adults and regional occupational centers and programs used in the calculation made pursuant to this subdivision for the 2007–08 fiscal year.

(b) Payments shall also be made directly to public school districts serving community colleges, on the basis of an equal amount for each unit of average daily attendance, as defined by law.

(c) Payments shall also be made directly to the Board of Trustees of the California State University on the basis of an amount for each unit of equivalent full-time enrollment. Funds received by the trustees shall be deposited in and expended from the California State University Lottery Education Fund, which is hereby created or, at the discretion of the trustees, deposited in local trust accounts in accordance with subdivision (j) of Section 89721 of the Education Code.

(d) Payments shall also be made directly to the Regents of the University of California on the basis of an amount for each unit of equivalent full-time enrollment.

(e) Payments shall also be made directly to the Board of Directors of the Hastings College of the Law on the basis of an amount for each unit of equivalent full-time enrollment.

(f) Payments shall also be made directly to the Department of the Youth Authority for educational programs serving kindergarten and grades 1 to 12, inclusive, or any part thereof, on the basis of an equal amount for each unit of average daily attendance, as defined by law.

(g) Payments shall also be made directly to the two California Schools for the Deaf, the California School for the Blind, and the three Diagnostic Schools for Neurologically Handicapped Children, on the basis of an amount for each unit of equivalent full-time enrollment.

(h) Payments shall also be made directly to the State Department of Developmental Services and the State Department of State Hospitals for clients with developmental or mental disabilities who are enrolled in state hospital education programs, including developmental centers, on the basis of an equal amount for each unit of average daily attendance, as defined by law.

(i) No Budget Act or other statutory provision shall direct that payments for public education made pursuant to this chapter be used for purposes and programs (including workload adjustments and maintenance of the level of service) authorized by Chapters 498, 565, and 1302 of the Statutes of 1983, Chapter 97 or 258 of the Statutes of 1984, or Chapter 1 of the Statutes of the 1983–84 Second Extraordinary Session.

(j) School districts and other agencies receiving funds distributed pursuant to this chapter may at their option utilize funds allocated by this chapter to provide additional funds for those purposes and programs prescribed by subdivision (i) for the purpose of enrichment or expansion.

(k) As a condition of receiving any moneys pursuant to subdivision (a) or (b), each district and county superintendent of schools shall establish a separate account for the receipt and expenditure of those moneys, which account shall be clearly identified as a lottery education account.

(l) Commencing with the 1998–99 fiscal year, and each year thereafter, for the purposes of subdivision (a), average daily attendance shall be increased by the statewide average rate of excused absences for the 1996–97 fiscal year as determined pursuant to the provisions of Chapter 855 of the Statutes of 1997. The statewide average excused absence rate, and the corresponding adjustment factor required for the operation of this subdivision, shall be certified to the State Controller by the Superintendent of Public Instruction.

(m) It is the intent of this chapter that all funds allocated from the California State Lottery Education Fund shall be used exclusively for the education of pupils and students and no funds

shall be spent for acquisition of real property, construction of facilities, financing of research, or any other noninstructional purpose.

SEC. 10. Section 11019 of the Government Code is amended to read:

11019. (a) Any department or authority specified in subdivision (b) may, upon determining that an advance payment is essential for the effective implementation of a program within the provisions of this section, and to the extent funds are available, advance to a community-based private nonprofit agency with which it has contracted, pursuant to federal law and related state law, for the delivery of services, not to exceed 25 percent of the annual allocation to be made pursuant to the contract and those laws during the fiscal year to the private nonprofit agency. Advances in excess of 25 percent may be made on contracts financed by a federal program when the advances are not prohibited by federal guidelines. Advance payments may be provided for services to be performed under any contract with a total annual contract amount of four hundred thousand dollars (\$400,000) or less. This amount shall be increased by 5 percent, as determined by the Department of Finance, for each year commencing with 1989. Advance payments may also be made with respect to any contract that the Department of Finance determines has been entered into with any community-based private nonprofit agency with modest reserves and potential cashflow problems. No advance payment shall be granted if the total annual contract exceeds four hundred thousand dollars (\$400,000), without the prior approval of the Department of Finance.

The specific departments and authority mentioned in subdivision (b) shall develop a plan to establish control procedures for advance payments. Each plan shall include a procedure whereby the department or authority determines whether or not an advance payment is essential for the effective implementation of a particular program being funded. Each plan shall be approved by the Department of Finance.

(b) Subdivision (a) shall apply to the Emergency Medical Service Authority, the California Department of Aging, the State Department of Developmental Services, the State Department of Alcohol and Drug Programs, the Department of Corrections, the Department of Economic Opportunity, the Employment

Development Department, the State Department of Health Services, the State Department of State Hospitals, the Department of Rehabilitation, the State Department of Social Services, the Department of Child Support Services, the Department of the Youth Authority, the State Department of Education, the area boards on developmental disabilities, the State Council on Developmental Disabilities, the Office of Statewide Health Planning and Development, and the California Environmental Protection Agency, including all boards and departments contained therein.

Subdivision (a) shall also apply to the California Health and Human Services Agency, which may make advance payments, pursuant to the requirements of that subdivision, to multipurpose senior services projects as established in Sections 9400 to 9413, inclusive, of the Welfare and Institutions Code.

Subdivision (a) shall also apply to the Resources Agency, including all boards and departments contained in that agency, which may make advance payments pursuant to the requirements of that subdivision with respect to grants and contracts awarded to certified local community conservation corps.

(c) A county may, upon determining that an advance payment is essential for the effective implementation of a program within the provisions of this section, and to the extent funds are available, and not more frequently than once each fiscal year, advance to a community-based private nonprofit agency with which it has contracted, pursuant to any applicable federal or state law, for the delivery of services, not to exceed 25 percent of the annual allocation to be made pursuant to the contract and those laws, during the fiscal year to the private nonprofit agency.

SEC. 11. Section 11435.15 of the Government Code is amended to read:

11435.15. (a) The following state agencies shall provide language assistance in adjudicative proceedings to the extent provided in this article:

- Agricultural Labor Relations Board
- Department of Alcohol and Drug Abuse
- State Athletic Commission
- California Unemployment Insurance Appeals Board
- Board of Prison Terms
- State Board of Barbering and Cosmetology

State Department of Developmental Services
Public Employment Relations Board
Franchise Tax Board
State Department of Health Services
Department of Housing and Community Development
Department of Industrial Relations
State Department of State Hospitals
Department of Motor Vehicles
Notary Public Section, Office of the Secretary of State
Public Utilities Commission
Office of Statewide Health Planning and Development
State Department of Social Services
Workers' Compensation Appeals Board
Department of the Youth Authority
Youthful Offender Parole Board
Department of Insurance
State Personnel Board
California Board of Podiatric Medicine
Board of Psychology

(b) Nothing in this section prevents an agency other than an agency listed in subdivision (a) from electing to adopt any of the procedures in this article, provided that any selection of an interpreter is subject to Section 11435.30.

(c) Nothing in this section prohibits an agency from providing an interpreter during a proceeding to which this chapter does not apply, including an informal factfinding or informal investigatory hearing.

(d) This article applies to an agency listed in subdivision (a) notwithstanding a general provision that this chapter does not apply to some or all of an agency's adjudicative proceedings.

SEC. 12. Section 14670.1 of the Government Code is amended to read:

14670.1. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of State Hospitals, may let to a nonprofit corporation, for the purpose of conducting an educational and work program for mentally retarded persons, and for a period not to exceed 50 years, real property not exceeding 10 acres located within the grounds of the Napa State Hospital.

The lease authorized by this section shall be nonassignable and shall be subject to periodic review every five years. This review shall be made by the Director of General Services, who shall do both of the following:

(a) Assure the state that the original purposes of the lease are being carried out.

(b) Determine what, if any, adjustment should be made in the terms of the lease.

The lease shall also provide for an initial capital outlay by the lessee of thirty thousand dollars (\$30,000) prior to January 1, 1976. Such capital outlay may be, or may have been, contributed before or after the effective date of the act adding this section.

SEC. 13. Section 14670.15 of the Government Code is amended to read:

14670.15. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of State Hospitals, may lease to Napa County for a period not to exceed 60 years, 32,632 square feet, on the east of Residence 09, building 225, facing Imola Street between Shurleft and Tejas Street, within the boundaries of Napa State Hospital for establishment of an independent living facility for persons who are mentally ill, persons who are handicapped, or persons who have low income. The lease shall be under terms and conditions determined by the director to be in the best interests of the state.

SEC. 14. Section 14670.2 of the Government Code, as amended by Section 1 of Chapter 65 of the Statutes of 1992, is amended to read:

14670.2. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of State Hospitals, may, in the best interests of the state, let to a public governmental agency, for the purpose of locating and conducting its trainable mentally retarded program, and for locating and conducting a child-care facility, and for a period not to exceed 50 years, real property not exceeding 10 acres located within the grounds of the Napa State Hospital. For the additional purpose of establishing an educational park, the director may, with the consent of the department, renegotiate the lease, for a period not to exceed 50 years, which period shall commence January 1, 1993. For the purposes of this section, "educational park" means a conglomerate of educational services, including, but not limited to, a children's

center, a preschool for severely disabled children, adult educational services, administrative offices, a community school, and a media services building.

The lease authorized by this section shall be nonassignable and shall be subject to periodic review every five years. That review shall be made by the Director of General Services, who shall do both of the following:

- (a) Assure the state the purposes of the lease are being carried out.
- (b) Determine what, if any, adjustment should be made in the terms of the lease.

The lease shall also provide for the establishment of a school building facility by the lessee prior to July 1, 1977. That facility shall not be established until after the effective date of the act amending this section.

SEC. 15. Section 14672.6 of the Government Code is amended to read:

14672.6. Notwithstanding Section 14670, the Director of General Services, with the consent of the Director of State Hospitals, may let to a nonprofit corporation, for the purpose of conducting a canteen for use in connection with Napa State Hospital, and for a period not to exceed 25 years, a building located within the grounds of Napa State Hospital at Napa, California.

SEC. 16. Section 14672.85 of the Government Code is amended to read:

14672.85. Notwithstanding Section 14670, the director, with the consent of the State Department of State Hospitals, may let to East Valley Water District for the purpose of development and operation of a public golf course and park, and for a period not to exceed 30 years, real property not exceeding 90 acres located within the grounds of Patton State Hospital on those terms and conditions that are determined by the Director of State Hospitals and by the Director of General Services to be in the best interest of the state and for rent that is not less than the fair market value of the land. The lease shall provide for renegotiation of the rent at 5-year intervals or at any more frequent interval determined by the Director of General Services and the Director of State Hospitals to be in the best interest of the state.

The rent, fees, or proceeds collected in connection with the lease of property pursuant to this section shall be made available to the

State Department of State Hospitals for allocation to the Patient Benefits Fund of Atascadero, Camarillo, Metropolitan, Napa, and Patton State Hospitals in an amount not to exceed twenty thousand dollars (\$20,000) annually per hospital, in accordance with Section 4125 of the Welfare and Institutions Code. Any additional amounts collected shall be deposited in the General Fund. Notwithstanding Section 13340, the moneys deposited in a patient benefits fund pursuant to this section are continuously appropriated, without regard to fiscal years, for patient benefits as provided in Section 4125 of the Welfare and Institutions Code.

SEC. 17. Section 14672.95 of the Government Code is amended to read:

14672.95. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of State Hospitals, may let to a nonprofit corporation or local government, for a period not to exceed 20 years, and for the purpose of providing services to elderly persons, a building located at Patton State Hospital.

SEC. 18. Section 14685 of the Government Code is amended to read:

14685. (a) The director shall appoint assistants, clerks, and employees as may be necessary to maintain the state buildings and grounds. The employees shall not have or perform the duties or functions of peace officers.

The department may establish rules and regulations for the government and maintenance of the state buildings and grounds. Every person who violates or attempts to violate the rules and regulations is guilty of a misdemeanor.

(b) Information regarding missing children provided by the Department of Justice pursuant to Section 11114.1 of the Penal Code shall be posted in public areas of all state-owned or leased buildings that have at least 20,000 square feet of office space, or that are staffed by at least 50 employees, or where service is provided to the general public and in other public areas of state-owned or leased buildings as determined by the department to be reasonable.

(c) (1) The Department of the California Highway Patrol may establish rules and regulations pertaining to the protection of state employees, properties, buildings and grounds, and occupants of state properties, including, but not limited to, the issuance of

permits concerning the use of state buildings, properties, and grounds.

(2) A violation of any rule or regulation adopted pursuant to paragraph (1) is a misdemeanor.

(3) This subdivision does not apply to state buildings or grounds owned, leased, rented, controlled, used, or occupied by the University of California, the California State University, Hastings College of the Law, the California Exposition and State Fair, the state hospitals of the State Department of State Hospitals or the State Department of Developmental Services, the institutions and camps of the Department of Corrections or the Department of the Youth Authority, and the parks and beaches of the Department of Parks and Recreation.

SEC. 19. Section 14977.5 of the Government Code is amended to read:

14977.5. (a) The following state agencies shall participate in the prescription drug bulk purchasing program authorized under this chapter.

- (1) State Department of State Hospitals.
- (2) Department of Corrections.
- (3) Department of the Youth Authority.
- (4) State Department of Developmental Services.

(b) Any state, district, county, city, municipal, or public agency governmental entity, other than a state entity specified in subdivision (a), may elect to participate in the coordinated purchasing program.

SEC. 20. Section 16304.6 of the Government Code is amended to read:

16304.6. Within the time during which the appropriation is available for expenditure, the California Victim Compensation and Government Claims Board at the request of the director of the department concerned and with the approval of the Director of Finance, may authorize that unneeded funds in any appropriation for the support of an institution, school, or college or for family care or private home care or for parole supervision activities within any of the following departments shall be available and be deemed appropriated for the support of any institution, school, or college or for family care or private home care or for parole supervision activities within the same department:

- (a) Department of Corrections and Rehabilitation.

- (b) Department of the Youth Authority.
- (c) State Department of Education.
- (d) State Department of State Hospitals.

SEC. 21. Section 19583.5 of the Government Code is amended to read:

19583.5. (a) Any person, except for a current ward of the Division of Juvenile Facilities, a current inmate of the Department of Corrections and Rehabilitation, or a current patient of a facility operated by the State Department of State Hospitals, with the consent of the board or the appointing power may file charges against an employee requesting that adverse action be taken for one or more causes for discipline specified in this article. Charges filed by a person who is a state employee shall not include issues covered by the state's employee grievance or other merit appeals processes. Any request of the board to file charges pursuant to this section shall be filed within one year of the event or events that led to the filing. The employee against whom the charges are filed shall have a right to answer as provided in this article. In all of these cases, a hearing shall be conducted in accord with this article and if the board finds that the charges are true it shall have the power to take any adverse action as in its judgment is just and proper. An employee who has sought to bring a charge or an adverse action against another employee using the grievance process, shall first exhaust that administrative process prior to bringing the case to the board.

(b) This section shall not be construed to supersede Section 19682.

SEC. 22. Section 19583.51 of the Government Code is amended to read:

19583.51. (a) Effective January 1, 1996, notwithstanding Section 19583.5, this section shall only apply to state employees in State Bargaining Unit 5. Any person, except for a current ward of the Division of Juvenile Facilities, a current inmate of the Department of Corrections and Rehabilitation, or a current patient of a facility operated by the State Department of State Hospitals, with the consent of the board or the appointing power may file charges against an employee requesting that adverse action be taken for one or more causes for discipline specified in this article. Any request of the board to file charges pursuant to this section shall be filed within one year of the event or events that led to the

filing. The employee against whom the charges are filed shall have a right to answer as provided in this article. In all of these cases, a hearing shall be conducted in accordance with this article and if the board finds that the charges are true it shall have the power to take any adverse action as in its judgment is just and proper.

(b) This section shall not be construed to supersede Section 19682.

(c) Any adverse action, as defined by Section 19576.1, that results from a request to file charges pursuant to this section, is subject to the appeal procedures in Section 19576.1.

SEC. 23. Section 19849.22 of the Government Code is amended to read:

19849.22. The Legislature finds and declares the following:

(a) If the state is to attract and retain a competent correction workforce, there is a compelling need to adequately compensate state peace officer/firefighter members who are supervisors.

(b) A supervisory compensation differential is necessary to compensate state peace officer/firefighter members who are supervisors within the departments and boards of the Youth and Adult Correctional Agency or who are correctional supervisors within the State Department of State Hospitals for the greater responsibility of accomplishing correctional work through the direction of others.

(c) For purposes of measuring the compensation differential referred to in subdivision (b), the value of salaries and other economic benefits shall be considered in calculating comparative rates.

SEC. 24. Section 20046.5 of the Government Code is amended to read:

20046.5. "Industrial" with respect to state miscellaneous members also means death or disability on or after January 1, 1995, resulting from an injury that is a direct consequence of a violent act perpetrated on his or her person by a patient or client of the State Department of State Hospitals at Metropolitan State Hospital or Napa State Hospital if:

(a) The member was performing his or her duties within a treatment ward at the time of the injury, or

(b) The member was not within a treatment ward but was acting within the scope of his or her employment at the hospital and is

regularly and substantially as part of his or her duties in contact with the patients or clients, and

(c) The member at the time of injury was employed in a state bargaining unit for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section, or

(d) The member was either excluded from the definition of state employee in subdivision (c) of Section 3513 or was a nonelected officer or employee of the executive branch of government who was not a member of the civil service.

SEC. 25. Section 20047 of the Government Code is amended to read:

20047. “Industrial” with respect to state miscellaneous members also means death or disability after January 1, 1993, resulting from an injury that is a direct consequence of a violent act perpetrated on his or her person by a patient or client of the State Department of State Hospitals at Patton State Hospital or Atascadero State Hospital, an inmate at the State Department of State Hospitals Psychiatric Program at California Medical Facility at Vacaville, or a patient at any other state hospital which is deemed a forensic facility if:

(a) The member was performing his or her duties within a treatment ward at the time of the injury, or

(b) The member was not within a treatment ward but was acting within the scope of his or her employment at the hospital and is regularly and substantially as part of his or her duties in contact with the patients or clients, and

(c) The member at the time of injury was employed in a state bargaining unit for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section, or

(d) The member was either excluded from the definition of state employee in subdivision (c) of Section 3513 or was a nonelected officer or employee of the executive branch of government who was not a member of the civil service.

SEC. 26. Section 20391 of the Government Code is amended to read:

20391. “State peace officer/firefighter member” means:

(a) All persons in the Board of Prison Terms, the Department of Consumer Affairs, the Department of Developmental Services,

the Department of Health Services, the Department of Toxic Substances Control, the Horse Racing Board, the Department of Industrial Relations, the Department of Insurance, the State Department of State Hospitals, the Department of Motor Vehicles, the Department of Social Services employed with the class title of Special Investigator (Class Code 8553), Senior Special Investigator (Class Code 8550), and Investigator Assistant (Class Code 8554) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(b) All persons in the Department of Alcoholic Beverage Control employed with the class title Investigator Trainee, Alcoholic Beverage Control (Class Code 7553), Investigator I, Alcoholic Beverage Control, Range A and B (Class Code 7554), and Investigator II, Alcoholic Beverage Control (Class Code 7555) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(c) All persons within the Department of Justice who are state employees as defined in subdivision (c) of Section 3513 and who have been designated as peace officers and performing investigative duties.

(d) All persons in the Department of Parks and Recreation employed with the class title of Park Ranger (Intermittent) (Class Code 0984) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(e) All persons in the Franchise Tax Board who have been designated as peace officers in subdivision (s) of Section 830.3 of the Penal Code.

(f) A member who is employed in a position that is reclassified to state peace officer/firefighter pursuant to this section may make an irrevocable election in writing to remain subject to the service retirement benefit and the normal rate of contribution applicable prior to reclassification by filing a notice of election with the board within 90 days of notification by the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for service included in the federal system.

SEC. 27. Section 20407 of the Government Code is amended to read:

20407. "State safety member" also includes officers and employees with the State Department of State Hospitals and the

Department of Corrections and Rehabilitation in the following classifications:

Classification Code	Classification Title
8254	Prelicensed Psychiatric Technician (forensic facility)
8253	Psychiatric Technician (forensic facility)
8252	Senior Psychiatric Technician (forensic facility)
8212	Nurse Practitioner (forensic facility)
8160	Health Services Specialist (forensic facility)
7601	Program Director-Medical (forensic facility)

“State safety member” also includes an officer or employee of the State Department of State Hospitals at Patton State Hospital or Atascadero State Hospital, the State Department of State Hospitals Psychiatric Program of California Medical Facility at Vacaville, or any other state hospital that is deemed a forensic facility, who either is excluded from the definition of state employee in subdivision (c) of Section 3513 or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service. An officer or employee may be a state safety member under this paragraph only if the person has responsibility for the direct supervision of state safety personnel specified in the classifications listed in this section and if the State Personnel Board determines that these officers and employees meet the state safety membership criteria established pursuant to Section 18717. The Department of Human Resources shall determine which classes meet the above conditions and report its findings to the Public Employees’ Retirement System, whereupon the change in membership categories shall take effect.

Any person so designated pursuant to this section may elect, within 90 days of notification by the board, to remain subject to the miscellaneous service retirement benefit and contribution rate by filing an irrevocable notice of election with the board. A

member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for service also included in the federal system.

SEC. 28. Section 20407.5 of the Government Code is amended to read:

20407.5. (a) Notwithstanding Section 20407, any person designated as a state safety member pursuant to Section 20407 who elected to remain subject to the miscellaneous service retirement benefit and contribution rate as provided in that section may elect instead to be subject to the state safety service retirement benefit and contribution rate.

(b) This section shall apply to those officers and employees of the State Department of State Hospitals described in Section 20407 who are represented by State Bargaining Unit 18 and who became safety members effective January 1, 1998, when the Napa State Hospital and the Metropolitan State Hospital were designated as forensic facilities.

(c) This section shall also apply to any member who is excluded from the definition of state employee in subdivision (c) of Section 3513 and who is directly associated with employees represented by State Bargaining Unit 18.

(d) The election provided under this section shall be filed with the board by the member within 90 days after notification by the board that the member has the right to elect to be subject to the state safety member service retirement formula and contribution rates. If the election is not made by the member, he or she shall remain subject to the miscellaneous service retirement benefit and contribution rate.

SEC. 29. Section 20408 of the Government Code is amended to read:

20408. "State safety member" also includes officers and employees with the State Department of State Hospitals or the Department of Forestry and Fire Protection in the following classifications:

Classification Code	Classification Title
2860	Audio Visual Assistant (Correctional Facility)

2861	Audio Visual Specialist (Correctional Facility)
8094	Registered Nurse (Forensic Facility)

“State safety member” also includes an officer or employee of the State Department of State Hospitals at Patton State Hospital or Atascadero State Hospital, who either is excluded from the definition of state employee in subdivision (c) of Section 3513, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service. An officer or employee may be a state safety member under this paragraph only if the person has responsibility for the supervision of state safety personnel specified in the classifications listed in this section and if the State Personnel Board determines that these officers and employees meet the state safety membership criteria established pursuant to Section 18717. The Department of Human Resources shall determine which classes meet the above conditions and report its findings to this system, whereupon the change in membership categories shall take effect.

SEC. 30. Section 20410 of the Government Code is amended to read:

20410. “State safety member” also includes all persons in the Department of Alcoholic Beverage Control, the Board of Prison Terms, the Department of Consumer Affairs, the Department of Developmental Services, the Department of Health Services, the Department of Toxic Substances Control, the Horse Racing Board, the Department of Industrial Relations, the Department of Insurance, the State Department of State Hospitals, the Department of Motor Vehicles, and the Department of Social Services employed with the class title of Special Investigator (Class Code 8553), Senior Special Investigator (Class Code 8550), Investigator Trainee (Class Code 8555) and Investigator Assistant (Class Code 8554), Supervising Special Investigator I (Class Code 8548), Special Investigator II (Class Code 8547), and persons in the class of State Park Ranger (Intermittent) (Class Code 0984) in the Department of Parks and Recreation, who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

SEC. 31. Section 20687.2 of the Government Code is amended to read:

20687.2. Notwithstanding Section 20687, the normal rate of contribution for state peace officer/firefighter members who are supervisors within the boards and departments of the Youth and Adult Correctional Agency or who are correctional supervisors within the State Department of State Hospitals for pay periods beginning after April 30, 2001, shall be 8 percent of compensation in excess of eight hundred sixty-three dollars (\$863) per month paid those members.

SEC. 32. Section 27491 of the Government Code is amended to read:

27491. It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths; unattended deaths; deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (e) of Section 1746 of the Health and Safety Code in the 20 days before death; deaths related to or following known or suspected self-induced or criminal abortion; known or suspected homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known or alleged rape or crime against nature; deaths in prison or while under sentence; deaths known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state mental hospitals serving the mentally disabled and operated by the State Department of State Hospitals; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Developmental Services; deaths under such circumstances as to afford a reasonable ground to suspect that the death was caused by the criminal act of another; and any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies.

In any case in which the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of his or her report to the state agency responsible for the state hospital.

The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death.

For the purpose of inquiry, the coroner shall have the right to exhume the body of a deceased person when necessary to discharge the responsibilities set forth in this section.

Any funeral director, physician, or other person who has charge of a deceased person's body, when death occurred as a result of any of the causes or circumstances described in this section, shall immediately notify the coroner. Any person who does not notify the coroner as required by this section is guilty of a misdemeanor.

SEC. 33. Section 70659 of the Government Code is amended to read:

70659. Where the public administrator, public guardian, or public conservator, or an employee of the State Department of State Hospitals or the State Department of Developmental Services is the petitioner in an official capacity in a proceeding described in Section 70650, 70653, 70657, or 70658, the fee is payable only out of the assets of the estate coming into the official's possession or control.

SEC. 34. Section 127450 of the Health and Safety Code is amended to read:

127450. As used in this article, the following terms have the following meanings:

(a) "Allowance for financially qualified patient" means, with respect to emergency care rendered to a financially qualified patient, an allowance that is applied after the emergency physician's charges are imposed on the patient, due to the patient's determined financial inability to pay the charges.

(b) “Emergency care” means emergency medical services and care, as defined in Section 1317.1, that is provided by an emergency physician in the emergency department of a hospital.

(c) “Emergency physician” means a physician and surgeon licensed pursuant to Chapter 2 (commencing with Section 2000) of the Business and Professions Code who is credentialed by a hospital and either employed or contracted by the hospital to provide emergency medical services in the emergency department of the hospital, except that an “emergency physician” shall not include a physician specialist who is called into the emergency department of a hospital or who is on staff or has privileges at the hospital outside of the emergency department.

(d) “Federal poverty level” means the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under authority of subsection (2) of Section 9902 of Title 42 of the United States Code.

(e) “Financially qualified patient” means a patient who is both of the following:

(1) A patient who is a self-pay patient or a patient with high medical costs.

(2) A patient who has a family income that does not exceed 350 percent of the federal poverty level.

(f) “Hospital” means a facility that is required to be licensed under subdivision (a) of Section 1250, except a facility operated by the State Department of State Hospitals or the Department of Corrections and Rehabilitation.

(g) “Office” means the Office of Statewide Health Planning and Development.

(h) “Self-pay patient” means a patient who does not have third-party coverage from a health insurer, health care service plan, Medicare, or Medicaid, and whose injury is not a compensable injury for purposes of workers’ compensation, automobile insurance, or other insurance as determined and documented by the emergency physician. Self-pay patients may include charity care patients.

(i) “A patient with high medical costs” means a person whose family income does not exceed 350 percent of the federal poverty level if that individual does not receive a discounted rate from the emergency physician as a result of his or her third-party coverage.

For these purposes, “high medical costs” means any of the following:

(1) Annual out-of-pocket costs incurred by the individual at the hospital that provided emergency care that exceed 10 percent of the patient’s family income in the prior 12 months.

(2) Annual out-of-pocket expenses that exceed 10 percent of the patient’s family income, if the patient provides documentation of the patient’s medical expenses paid by the patient or the patient’s family in the prior 12 months. The emergency physician may waive the request for documentation.

(3) A lower level determined by the emergency physician in accordance with the emergency physician’s discounted payment policy.

(j) “Patient’s family” means the following:

(1) For persons 18 years of age and older, spouse, domestic partner, as defined in Section 297 of the Family Code, and dependent children under 21 years of age, whether living at home or not.

(2) For persons under 18 years of age, parent, caretaker relatives, and other children under 21 years of age of the parent or caretaker relative.

SEC. 35. Section 1370.01 of the Penal Code is amended to read:

1370.01. (a) (1) If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged shall proceed, and judgment may be pronounced. If the defendant is found mentally incompetent, the trial or judgment shall be suspended until the person becomes mentally competent, and the court shall order that (A) in the meantime, the defendant be delivered by the sheriff to an available public or private treatment facility approved by the county mental health director that will promote the defendant’s speedy restoration to mental competence, or placed on outpatient status as specified in this section, and (B) upon the filing of a certificate of restoration to competence, the defendant be returned to court in accordance with Section 1372. The court shall transmit a copy of its order to the county mental health director or his or her designee.

(2) Prior to making the order directing that the defendant be confined in a treatment facility or placed on outpatient status, the court shall proceed as follows:

(A) The court shall order the county mental health director or his or her designee to evaluate the defendant and to submit to the court within 15 judicial days of the order a written recommendation as to whether the defendant should be required to undergo outpatient treatment, or committed to a treatment facility. No person shall be admitted to a treatment facility or placed on outpatient status under this section without having been evaluated by the county mental health director or his or her designee. No person shall be admitted to a state hospital under this section unless the county mental health director finds that there is no less restrictive appropriate placement available and the county mental health director has a contract with the State Department of State Hospitals for these placements.

(B) The court shall hear and determine whether the defendant, with advice of his or her counsel, consents to the administration of antipsychotic medication, and shall proceed as follows:

(i) If the defendant, with advice of his or her counsel, consents, the court order of commitment shall include confirmation that antipsychotic medication may be given to the defendant as prescribed by a treating psychiatrist pursuant to the defendant's consent. The commitment order shall also indicate that, if the defendant withdraws consent for antipsychotic medication, after the treating psychiatrist complies with the provisions of subparagraph (C), the defendant shall be returned to court for a hearing in accordance with this subdivision regarding whether antipsychotic medication shall be administered involuntarily.

(ii) If the defendant does not consent to the administration of medication, the court shall hear and determine whether any of the following is true:

(I) The defendant lacks capacity to make decisions regarding antipsychotic medication, the defendant's mental disorder requires medical treatment with antipsychotic medication, and, if the defendant's mental disorder is not treated with antipsychotic medication, it is probable that serious harm to the physical or mental health of the patient will result. Probability of serious harm to the physical or mental health of the defendant requires evidence that the defendant is presently suffering adverse effects to his or her physical or mental health, or the defendant has previously suffered these effects as a result of a mental disorder and his or her condition is substantially deteriorating. The fact that a

defendant has a diagnosis of a mental disorder does not alone establish probability of serious harm to the physical or mental health of the defendant.

(II) The defendant is a danger to others, in that the defendant has inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm on another while in custody, or the defendant had inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm on another that resulted in his or her being taken into custody, and the defendant presents, as a result of mental disorder or mental defect, a demonstrated danger of inflicting substantial physical harm on others. Demonstrated danger may be based on an assessment of the defendant's present mental condition, including a consideration of past behavior of the defendant within six years prior to the time the defendant last attempted to inflict, inflicted, or threatened to inflict substantial physical harm on another, and other relevant evidence.

(III) The people have charged the defendant with a serious crime against the person or property; involuntary administration of antipsychotic medication is substantially likely to render the defendant competent to stand trial; the medication is unlikely to have side effects that interfere with the defendant's ability to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a reasonable manner; less intrusive treatments are unlikely to have substantially the same results; and antipsychotic medication is in the patient's best medical interest in light of his or her medical condition.

(iii) If the court finds any of the conditions described in clause (ii) to be true, the court shall issue an order authorizing the treatment facility to involuntarily administer antipsychotic medication to the defendant when and as prescribed by the defendant's treating psychiatrist. The court shall not order involuntary administration of psychotropic medication under subclause (III) of clause (ii) unless the court has first found that the defendant does not meet the criteria for involuntary administration of psychotropic medication under subclause (I) of clause (ii) and does not meet the criteria under subclause (II) of clause (ii).

(iv) In all cases, the treating hospital, facility, or program may administer medically appropriate antipsychotic medication

prescribed by a psychiatrist in an emergency as described in subdivision (m) of Section 5008 of the Welfare and Institutions Code.

(v) Any report made pursuant to subdivision (b) shall include a description of any antipsychotic medication administered to the defendant and its effects and side effects, including effects on the defendant's appearance or behavior that would affect the defendant's ability to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a reasonable manner. During the time the defendant is confined in a state hospital or other treatment facility or placed on outpatient status, either the defendant or the people may request that the court review any order made pursuant to this subdivision. The defendant, to the same extent enjoyed by other patients in the state hospital or other treatment facility, shall have the right to contact the Patients' Rights Advocate regarding his or her rights under this section.

(C) If the defendant consented to antipsychotic medication as described in clause (i) of subparagraph (B), but subsequently withdraws his or her consent, or, if involuntary antipsychotic medication was not ordered pursuant to clause (ii) of subparagraph (B), and the treating psychiatrist determines that antipsychotic medication has become medically necessary and appropriate, the treating psychiatrist shall make efforts to obtain informed consent from the defendant for antipsychotic medication. If informed consent is not obtained from the defendant, and the treating psychiatrist is of the opinion that the defendant lacks capacity to make decisions regarding antipsychotic medication as specified in subclause (I) of clause (ii) of subparagraph (B), or that the defendant is a danger to others as specified in subclause (II) of clause (ii) of subparagraph (B), the committing court shall be notified of this, including an assessment of the current mental status of the defendant and the opinion of the treating psychiatrist that involuntary antipsychotic medication has become medically necessary and appropriate. The court shall provide copies of the report to the prosecuting attorney and to the attorney representing the defendant and shall set a hearing to determine whether involuntary antipsychotic medication should be ordered in the manner described in subparagraph (B).

(3) When the court, after considering the placement recommendation of the county mental health director required in paragraph (2), orders that the defendant be confined in a public or private treatment facility, the court shall provide copies of the following documents which shall be taken with the defendant to the treatment facility where the defendant is to be confined:

(A) The commitment order, including a specification of the charges.

(B) A computation or statement setting forth the maximum term of commitment in accordance with subdivision (c).

(C) A computation or statement setting forth the amount of credit for time served, if any, to be deducted from the maximum term of commitment.

(D) State summary criminal history information.

(E) Any arrest reports prepared by the police department or other law enforcement agency.

(F) Any court-ordered psychiatric examination or evaluation reports.

(G) The county mental health director's placement recommendation report.

(4) A person subject to commitment under this section may be placed on outpatient status under the supervision of the county mental health director or his or her designee by order of the court in accordance with the procedures contained in Title 15 (commencing with Section 1600) except that where the term "community program director" appears the term "county mental health director" shall be substituted.

(5) If the defendant is committed or transferred to a public or private treatment facility approved by the county mental health director, the court may, upon receiving the written recommendation of the county mental health director, transfer the defendant to another public or private treatment facility approved by the county mental health director. In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code. Where either the defendant or the prosecutor chooses to contest the order of transfer, a petition may be filed in the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At the hearing, the prosecuting attorney

or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as are used in conducting probation revocation hearings pursuant to Section 1203.2.

Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the county mental health director or his or her designee.

(b) Within 90 days of a commitment made pursuant to subdivision (a), the medical director of the treatment facility to which the defendant is confined shall make a written report to the court and the county mental health director or his or her designee, concerning the defendant's progress toward recovery of mental competence. Where the defendant is on outpatient status, the outpatient treatment staff shall make a written report to the county mental health director concerning the defendant's progress toward recovery of mental competence. Within 90 days of placement on outpatient status, the county mental health director shall report to the court on this matter. If the defendant has not recovered mental competence, but the report discloses a substantial likelihood that the defendant will regain mental competence in the foreseeable future, the defendant shall remain in the treatment facility or on outpatient status. Thereafter, at six-month intervals or until the defendant becomes mentally competent, where the defendant is confined in a treatment facility, the medical director of the hospital or person in charge of the facility shall report in writing to the court and the county mental health director or a designee regarding the defendant's progress toward recovery of mental competence. Where the defendant is on outpatient status, after the initial 90-day report, the outpatient treatment staff shall report to the county mental health director on the defendant's progress toward recovery, and the county mental health director shall report to the court on this matter at six-month intervals. A copy of these reports shall be provided to the prosecutor and defense counsel by the court. If the report indicates that there is no substantial likelihood that the defendant will regain mental competence in the foreseeable future, the committing court shall order the defendant to be returned to the court for proceedings pursuant to paragraph (2) of subdivision (c). The court shall transmit a copy of its order to the county mental health director or his or her designee.

(c) (1) If, at the end of one year from the date of commitment or a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged in the misdemeanor complaint, whichever is shorter, the defendant has not recovered mental competence, the defendant shall be returned to the committing court. The court shall notify the county mental health director or his or her designee of the return and of any resulting court orders.

(2) Whenever any defendant is returned to the court pursuant to subdivision (b) or paragraph (1) of this subdivision and it appears to the court that the defendant is gravely disabled, as defined in subparagraph (A) of paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code, the court shall order the conservatorship investigator of the county of commitment of the defendant to initiate conservatorship proceedings for the defendant pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. Any hearings required in the conservatorship proceedings shall be held in the superior court in the county that ordered the commitment. The court shall transmit a copy of the order directing initiation of conservatorship proceedings to the county mental health director or his or her designee and shall notify the county mental health director or his or her designee of the outcome of the proceedings.

(d) The criminal action remains subject to dismissal pursuant to Section 1385. If the criminal action is dismissed, the court shall transmit a copy of the order of dismissal to the county mental health director or his or her designee.

(e) If the criminal charge against the defendant is dismissed, the defendant shall be released from any commitment ordered under this section, but without prejudice to the initiation of any proceedings which may be appropriate under Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code.

SEC. 36. Section 1370.4 of the Penal Code is amended to read:

1370.4. If, in the evaluation ordered by the court under Section 1370.1, the regional center director, or a designee, is of the opinion that the defendant is not a danger to the health and safety of others while on outpatient treatment and will benefit from such treatment, and has obtained the agreement of the person in charge of a residential facility and of the defendant that the defendant will

receive and submit to outpatient treatment and that the person in charge of the facility will designate a person to be the outpatient supervisor of the defendant, the court may order the defendant to undergo outpatient treatment. All of the provisions of Title 15 (commencing with Section 1600) of Part 2 shall apply where a defendant is placed on outpatient status under this section, except that the regional center director shall be substituted for the community program director, the Director of Developmental Services for the Director of State Hospitals, and a residential facility for a treatment facility for the purposes of this section.

SEC. 37. Section 1551.05 of the Penal Code is amended to read:

1551.05. (a) Any person on outpatient status pursuant to Title 15 (commencing with Section 1600) of Part 2 or pursuant to subdivision (d) of Section 2972 who leaves this state without complying with Section 1611, or who fails to return to this state on the date specified by the committing court, shall be subject to extradition in accordance with this section.

(b) If the return to this state is required by a person who is subject to extradition pursuant to subdivision (a), the Director of State Hospitals shall present to the Governor a written application for requisition for the return of that person. In the requisition application there shall be stated the name of the person, the type of judicial commitment the person is under, the nature of the underlying criminal act which was the basis for the judicial commitment, the circumstances of the noncompliance with Section 1611, and the state in which the person is believed to be, including the specific location of the person, if known.

(c) The application shall be verified, shall be executed in duplicate, and shall be accompanied by two certified copies of the court order of judicial commitment and of the court order authorizing outpatient status. The director may also attach any affidavits or other documents in duplicate as are deemed proper to be submitted with the application. One copy of the application, with the action of the Governor indicated by endorsement thereon, and one copy of the court orders shall be filed in the office of the Secretary of State. The other copies of all papers shall be forwarded with the Governor's requisition.

(d) Upon receipt of an application under this section, the Governor or agent authorized in writing by the Governor whose

authorization has been filed with the Secretary of State, may sign a requisition for the return of the person.

SEC. 38. Section 9001 of the Penal Code is amended to read:

9001. (a) The Sex Offender Management Board which is hereby created under the jurisdiction of the Department of Corrections and Rehabilitation, shall consist of 17 members. The membership of the board shall reflect, to the extent possible, representation of northern, central, and southern California as well as both urban and rural areas. Each appointee to the board, regardless of the appointing authority, shall have the following characteristics:

(1) Substantial prior knowledge of issues related to sex offenders, at least insofar as related to his or her own agency's practices.

(2) Decisionmaking authority for, or direct access to those who have decisionmaking authority for, the agency or constituency he or she represents.

(3) A willingness to serve on the board and a commitment to contribute to the board's work.

(b) The membership of the board shall consist of the following persons:

(1) State government agencies:

(A) The Attorney General or his or her designee who shall be an authority in policy areas pertaining to sex offenders and shall have expertise in dealing with sex offender registration, notification, and enforcement.

(B) The Secretary of the Department of Corrections and Rehabilitation or his or her designee who has expertise in parole policies and practices.

(C) The Director of Adult Parole Services or his or her designee.

(D) One California state judge, appointed by the Judicial Council.

(E) The Director of State Hospitals or his or her designee who is a licensed mental health professional with recognized expertise in the treatment of sex offenders.

(2) Local government agencies:

(A) Three members who represent law enforcement, appointed by the Governor. One member shall possess investigative expertise and one member shall have law enforcement duties that include

registration and notification responsibilities, and one shall be a chief probation officer.

(B) One member who represents prosecuting attorneys, appointed by the Senate Committee on Rules. He or she shall have expertise in dealing with adult sex offenders.

(C) One member who represents probation officers, appointed by the Speaker of the Assembly.

(D) One member who represents criminal defense attorneys, appointed by the Speaker of the Assembly.

(E) One member who is a county administrator, appointed by the Governor.

(F) One member who is a city manager or his or her designee, appointed by the Speaker of the Assembly.

(3) Nongovernmental agencies:

(A) Two members who are licensed mental health professionals with recognized experience in working with sex offenders and who can represent, through their established involvement in a formal statewide professional organization, those who provide evaluation and treatment for adult sex offenders, appointed by the Senate Committee on Rules.

(B) Two members who are recognized experts in the field of sexual assault and represent sexual assault victims, both adults and children, and rape crisis centers, appointed by the Governor.

(c) The board shall appoint a chair from among the members appointed pursuant to subdivision (b). The chair shall serve in that capacity at the pleasure of the board.

(d) Each member of the board who is appointed pursuant to this section shall serve without compensation.

(e) If a board member is unable to adequately perform his or her duties or is unable to attend more than three meetings in a single 12-month period, he or she is subject to removal from the board by a majority vote of the full board.

(f) Any vacancies on the board as a result of the removal of a member shall be filled by the appointing authority of the removed member within 30 days of the vacancy.

(g) The board may create, at its discretion, subcommittees or task forces to address specific issues. These may include board members as well as invited experts and other participants.

(h) The board shall hire a coordinator who has relevant experience in policy research. The board may hire other staff as funding permits.

(i) In the course of performing its duties, the board shall, when possible, make use of the available resources of research agencies such as the Legislative Analyst's Office, the California Research Bureau, the California State University system, including schools of public policy and criminology, and other similar sources of assistance.

(j) Staff support services for the board shall be provided by staff of the Department of Corrections and Rehabilitation as directed by the secretary.

SEC. 39. Section 1461 of the Probate Code is amended to read:

1461. (a) As used in this section, "director" means:

(1) The Director of State Hospitals when the state hospital referred to in subdivision (b) is under the jurisdiction of the State Department of State Hospitals.

(2) The Director of Developmental Services when the state hospital referred to in subdivision (b) is under the jurisdiction of the State Department of Developmental Services.

(b) Notice of the time and place of hearing on the petition, report, or account, and a copy of the petition, report, or account, shall be mailed to the director at the director's office in Sacramento at least 15 days before the hearing if both of the following conditions exist:

(1) The ward or conservatee is or has been during the guardianship or conservatorship proceeding a patient in, or on leave from, a state hospital under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services.

(2) The petition, report, or account is filed under any one or more of the following provisions: Section 1510, 1820, 1861, 2212, 2403, 2421, 2422, or 2423; Article 7 (commencing with Section 2540) of Chapter 6 of Part 4; Section 2580, 2592, or 2620; Chapter 9.5 (commencing with Section 2670) of Part 4; Section 3080 or 3088; or Chapter 3 (commencing with Section 3100) of Part 6. Notice under this section is not required in the case of an account pursuant to Section 2620 if the total guardianship or conservatorship assets are less than one thousand five hundred dollars (\$1,500) and the gross annual income, exclusive of any

public assistance income, is less than six thousand dollars (\$6,000), and the ward or conservatee is not a patient in, or on leave or on outpatient status from, a state hospital at the time of the filing of the petition.

(c) If the ward or conservatee has been discharged from the state hospital, the director, upon ascertaining the facts, may file with the court a certificate stating that the ward or conservatee is not indebted to the state and waive the giving of further notices under this section. Upon the filing of the certificate of the director, compliance with this section thereafter is not required unless the certificate is revoked by the director and notice of the revocation is filed with the court.

(d) The statute of limitations does not run against any claim of the State Department of State Hospitals or the State Department of Developmental Services against the estate of the ward or conservatee for board, care, maintenance, or transportation with respect to an account that is settled without giving the notice required by this section.

SEC. 40. Section 1510 of the Probate Code is amended to read:

1510. (a) A relative or other person on behalf of the minor, or the minor if 12 years of age or older, may file a petition for the appointment of a guardian of the minor.

(b) The petition shall request that a guardian of the person or estate of the minor, or both, be appointed, shall specify the name and address of the proposed guardian and the name and date of birth of the proposed ward, and shall state that the appointment is necessary or convenient.

(c) The petition shall set forth, so far as is known to the petitioner, the names and addresses of all of the following:

- (1) The parents of the proposed ward.
- (2) The person having legal custody of the proposed ward and, if that person does not have the care of the proposed ward, the person having the care of the proposed ward.
- (3) The relatives of the proposed ward within the second degree.
- (4) In the case of a guardianship of the estate, the spouse of the proposed ward.
- (5) Any person nominated as guardian for the proposed ward under Section 1500 or 1501.

(6) In the case of a guardianship of the person involving an Indian child, any Indian custodian and the Indian child's tribe.

(d) If the proposed ward is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services and that fact is known to the petitioner, the petition shall state that fact and name the institution.

(e) The petition shall state, so far as is known to the petitioner, whether or not the proposed ward is receiving or is entitled to receive benefits from the Veterans Administration and the estimated amount of the monthly benefit payable by the Veterans Administration for the proposed ward.

(f) If the petitioner has knowledge of any pending adoption, juvenile court, marriage dissolution, domestic relations, custody, or other similar proceeding affecting the proposed ward, the petition shall disclose the pending proceeding.

(g) If the petitioners have accepted or intend to accept physical care or custody of the child with intent to adopt, whether formed at the time of placement or formed subsequent to placement, the petitioners shall so state in the guardianship petition, whether or not an adoption petition has been filed.

(h) If the proposed ward is or becomes the subject of an adoption petition, the court shall order the guardianship petition consolidated with the adoption petition, and the consolidated case shall be heard and decided in the court in which the adoption is pending.

(i) If the proposed ward is or may be an Indian child, the petition shall state that fact.

SEC. 41. Section 1511 of the Probate Code is amended to read:

1511. (a) Except as provided in subdivisions (f) and (g), at least 15 days before the hearing on the petition for the appointment of a guardian, notice of the time and place of the hearing shall be given as provided in subdivisions (b), (c), (d), and (e) of this section. The notice shall be accompanied by a copy of the petition. The court may not shorten the time for giving the notice of hearing under this section.

(b) Notice shall be served in the manner provided in Section 415.10 or 415.30 of the Code of Civil Procedure, or in any manner authorized by the court, on all of the following persons:

- (1) The proposed ward if 12 years of age or older.
- (2) Any person having legal custody of the proposed ward, or serving as guardian of the estate of the proposed ward.
- (3) The parents of the proposed ward.

(4) Any person nominated as a guardian for the proposed ward under Section 1500 or 1501.

(c) Notice shall be given by mail sent to their addresses stated in the petition, or in any manner authorized by the court, to all of the following:

(1) The spouse named in the petition.

(2) The relatives named in the petition, except that if the petition is for the appointment of a guardian of the estate only the court may dispense with the giving of notice to any one or more or all of the relatives.

(3) The person having the care of the proposed ward if other than the person having legal custody of the proposed ward.

(d) If notice is required by Section 1461 or Section 1542 to be given to the Director of State Hospitals or the Director of Developmental Services or the Director of Social Services, notice shall be mailed as so required.

(e) If the petition states that the proposed ward is receiving or is entitled to receive benefits from the Veterans Administration, notice shall be mailed to the office of the Veterans Administration referred to in Section 1461.5.

(f) Unless the court orders otherwise, notice shall not be given to any of the following:

(1) The parents or other relatives of a proposed ward who has been relinquished to a licensed adoption agency.

(2) The parents of a proposed ward who has been judicially declared free from their custody and control.

(g) Notice need not be given to any person if the court so orders upon a determination of either of the following:

(1) The person cannot with reasonable diligence be given the notice.

(2) The giving of the notice would be contrary to the interest of justice.

(h) Before the appointment of a guardian is made, proof shall be made to the court that each person entitled to notice under this section either:

(1) Has been given notice as required by this section.

(2) Has not been given notice as required by this section because the person cannot with reasonable diligence be given the notice or because the giving of notice to that person would be contrary to the interest of justice.

(i) If notice is required by Section 1460.2 to be given to an Indian custodian or tribe, notice shall be mailed as so required.

SEC. 42. Section 1821 of the Probate Code is amended to read:

1821. (a) The petition shall request that a conservator be appointed for the person or estate, or both, shall specify the name, address, and telephone number of the proposed conservator and the name, address, and telephone number of the proposed conservatee, and state the reasons why a conservatorship is necessary. Unless the petitioner is a bank or other entity authorized to conduct the business of a trust company, the petitioner shall also file supplemental information as to why the appointment of a conservator is required. The supplemental information to be submitted shall include a brief statement of facts addressed to each of the following categories:

(1) The inability of the proposed conservatee to properly provide for his or her needs for physical health, food, clothing, and shelter.

(2) The location of the proposed conservatee's residence and the ability of the proposed conservatee to live in the residence while under conservatorship.

(3) Alternatives to conservatorship considered by the petitioner and reasons why those alternatives are not available.

(4) Health or social services provided to the proposed conservatee during the year preceding the filing of the petition, when the petitioner has information as to those services.

(5) The inability of the proposed conservatee to substantially manage his or her own financial resources, or to resist fraud or undue influence.

The facts required to address the categories set forth in paragraphs (1) to (5), inclusive, shall be set forth by the petitioner when he or she has knowledge of the facts or by the declarations or affidavits of other persons having knowledge of those facts.

Where any of the categories set forth in paragraphs (1) to (5), inclusive, are not applicable to the proposed conservatorship, the petitioner shall so indicate and state on the supplemental information form the reasons therefor.

The Judicial Council shall develop a supplemental information form for the information required pursuant to paragraphs (1) to (5), inclusive, after consultation with individuals or organizations approved by the Judicial Council, who represent public conservators, court investigators, the State Bar, specialists with

experience in performing assessments and coordinating community-based services, and legal services for the elderly and disabled.

The supplemental information form shall be separate and distinct from the form for the petition. The supplemental information shall be confidential and shall be made available only to parties, persons given notice of the petition who have requested this supplemental information or who have appeared in the proceedings, their attorneys, and the court. The court shall have discretion at any other time to release the supplemental information to other persons if it would serve the interests of the conservatee. The clerk of the court shall make provision for limiting disclosure of the supplemental information exclusively to persons entitled thereto under this section.

(b) The petition shall set forth, so far as they are known to the petitioner, the names and addresses of the spouse or domestic partner, and of the relatives of the proposed conservatee within the second degree. If no spouse or domestic partner of the proposed conservatee or relatives of the proposed conservatee within the second degree are known to the petitioner, the petition shall set forth, so far as they are known to the petitioner, the names and addresses of the following persons who, for the purposes of Section 1822, shall all be deemed to be relatives:

- (1) A spouse or domestic partner of a predeceased parent of a proposed conservatee.
- (2) The children of a predeceased spouse or domestic partner of a proposed conservatee.
- (3) The siblings of the proposed conservatee's parents, if any, but if none, then the natural and adoptive children of the proposed conservatee's parents' siblings.
- (4) The natural and adoptive children of the proposed conservatee's siblings.

(c) Unless the petition for appointment of a temporary guardian or a temporary conservator is filed together with a petition for appointment of a guardian or a conservator, if the petitioner is licensed under the Professional Fiduciaries Act, Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code, the petition shall include both of the following:

- (1) A statement of the petitioner's license information.

(2) A statement explaining who engaged the petitioner or how the petitioner was engaged to file the petition for appointment of a conservator and what prior relationship the petitioner had with the proposed conservatee or the proposed conservatee's family or friends.

(d) If the petition is filed by a person other than the proposed conservatee, the petition shall include a declaration of due diligence showing both of the following:

(1) Either the efforts to find the proposed conservatee's relatives or why it was not feasible to contact any of them.

(2) Either the preferences of the proposed conservatee concerning the appointment of a conservator and the appointment of the proposed conservator or why it was not feasible to ascertain those preferences.

(e) If the petition is filed by a person other than the proposed conservatee, the petition shall state whether or not the petitioner is a creditor or debtor, or the agent of a creditor or debtor, of the proposed conservatee.

(f) If the proposed conservatee is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services and that fact is known to the petitioner, the petition shall state that fact and name the institution.

(g) The petition shall state, so far as is known to the petitioner, whether or not the proposed conservatee is receiving or is entitled to receive benefits from the Veterans Administration and the estimated amount of the monthly benefit payable by the Veterans Administration for the proposed conservatee.

(h) The petition may include an application for any order or orders authorized under this division, including, but not limited to, orders under Chapter 4 (commencing with Section 1870).

(i) The petition may include a further statement that the proposed conservatee is not willing to attend the hearing on the petition, does not wish to contest the establishment of the conservatorship, and does not object to the proposed conservator or prefer that another person act as conservator.

(j) In the case of an allegedly developmentally disabled adult, the petition shall set forth the following:

(1) The nature and degree of the alleged disability, the specific duties and powers requested by or for the limited conservator, and

the limitations of civil and legal rights requested to be included in the court's order of appointment.

(2) Whether or not the proposed limited conservatee is or is alleged to be developmentally disabled.

Reports submitted pursuant to Section 416.8 of the Health and Safety Code meet the requirements of this section, and conservatorships filed pursuant to Article 7.5 (commencing with Section 416) of Part 1 of Division 1 of the Health and Safety Code are exempt from providing the supplemental information required by this section, so long as the guidelines adopted by the State Department of Developmental Services for regional centers require the same information that is required pursuant to this section.

SEC. 43. Section 1822 of the Probate Code is amended to read:

1822. (a) At least 15 days before the hearing on the petition for appointment of a conservator, notice of the time and place of the hearing shall be given as provided in this section. The notice shall be accompanied by a copy of the petition. The court may not shorten the time for giving the notice of hearing under this section.

(b) Notice shall be mailed to the following persons:

(1) The spouse, if any, or registered domestic partner, if any, of the proposed conservatee at the address stated in the petition.

(2) The relatives named in the petition at their addresses stated in the petition.

(c) If notice is required by Section 1461 to be given to the Director of State Hospitals or the Director of Developmental Services, notice shall be mailed as so required.

(d) If the petition states that the proposed conservatee is receiving or is entitled to receive benefits from the Veterans Administration, notice shall be mailed to the Office of the Veterans Administration referred to in Section 1461.5.

(e) If the proposed conservatee is a person with developmental disabilities, at least 30 days before the day of the hearing on the petition, the petitioner shall mail a notice of the hearing and a copy of the petition to the regional center identified in Section 1827.5.

(f) If the petition states that the petitioner and the proposed conservator have no prior relationship with the proposed conservatee and are not nominated by a family member, friend, or other person with a relationship to the proposed conservatee, notice shall be mailed to the public guardian of the county in which the petition is filed.

SEC. 44. Section 2420 of the Probate Code is amended to read:

2420. (a) Subject to Section 2422, the guardian or conservator shall apply the income from the estate, so far as necessary, to the comfortable and suitable support, maintenance, and education of the ward or conservatee (including care, treatment, and support of a ward or conservatee who is a patient in a state hospital under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services) and of those legally entitled to support, maintenance, or education from the ward or conservatee, taking into account the value of the estate and the condition of life of the persons required to be furnished such support, maintenance, or education.

(b) If the income from the estate is insufficient for the purpose described in subdivision (a), the guardian or conservator may sell or give a security interest in or other lien on any personal property of the estate, or sell or mortgage or give a deed of trust on any real property of the estate, as provided in this part.

(c) When the amount paid by the guardian or conservator for the purpose described in subdivision (a) satisfies the standard set out in that subdivision, and the payments are supported by proper vouchers or other proof satisfactory to the court, the guardian or conservator shall be allowed credit for such payments when the accounts of the guardian or conservator are settled.

(d) Nothing in this section requires the guardian or conservator to obtain court authorization before making the payments authorized by this section, but nothing in this section dispenses with the need to obtain any court authorization otherwise required for a particular transaction.

(e) Nothing in this section precludes the guardian or conservator from seeking court authorization or instructions or approval and confirmation pursuant to Section 2403.

SEC. 45. Section 2541 of the Probate Code is amended to read:

2541. The guardian or conservator may sell real or personal property of the estate in any of the following cases:

(a) If the income of the estate is insufficient for the comfortable and suitable support, maintenance, and education of the ward or conservatee (including care, treatment, and support of the ward or conservatee if a patient in a state hospital under the jurisdiction of the State Department of State Hospitals or the State Department

of Developmental Services) or of those legally entitled to support, maintenance, or education from the ward or conservatee.

(b) If the sale is necessary to pay the debts referred to in Sections 2430 and 2431.

(c) If the sale is for the advantage, benefit, and best interest of (1) the ward or conservatee, (2) the estate, or (3) the ward or conservatee and those legally entitled to support, maintenance, or education from the ward or conservatee.

SEC. 46. Section 2611 of the Probate Code is amended to read:

2611. If the ward or conservatee is or has been during the guardianship or conservatorship a patient in a state hospital under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services, the guardian or conservator shall mail a copy of the inventory and appraisal filed under Section 2610 to the director of the appropriate department at the director's office in Sacramento not later than 15 days after the inventory and appraisal is filed with the court. Compliance with this section is not required if an unrevoked certificate described in subdivision (c) of Section 1461 is on file with the court with respect to the ward or conservatee.

SEC. 47. Section 2621 of the Probate Code is amended to read:

2621. Notice of the hearing on the account of the guardian or conservator shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1. If notice is required to be given to the Director of State Hospitals or the Director of Developmental Services under Section 1461, the account shall not be settled or allowed unless notice has been given as provided in Section 1461.

SEC. 48. Section 2682 of the Probate Code is amended to read:

2682. (a) The petition shall request that a successor conservator be appointed for the person or estate, or both, and shall specify the name and address of the proposed successor conservator and the name and address of the conservatee.

(b) The petition shall set forth, so far as they are known to the petitioner, the names and addresses of the spouse or domestic partner and of the relatives of the conservatee within the second degree.

(c) If the petition is filed by one other than the conservatee, the petition shall state whether or not the petitioner is a creditor or debtor of the conservatee.

(d) If the conservatee is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services and that fact is known to the petitioner, the petition shall state that fact and name the institution.

(e) The petition shall state, so far as is known to the petitioner, whether or not the conservatee is receiving or is entitled to receive benefits from the Veterans Administration and the estimated amount of the monthly benefit payable by the Veterans Administration for the conservatee.

(f) The petition shall state whether or not the conservatee will be present at the hearing.

SEC. 49. Section 2683 of the Probate Code is amended to read:

2683. (a) At least 15 days before the hearing on the petition for appointment of a successor conservator, notice of the time and place of the hearing shall be given as provided in this section. The notice shall be accompanied by a copy of the petition.

(b) Notice shall be mailed to the persons designated in Section 1460 and to the relatives named in the petition.

(c) If notice is required by Section 1461 to be given to the Director of State Hospitals or the Director of Developmental Services, notice shall be mailed as so required.

(d) If notice is required by Section 1461.5 to be given to the Veterans Administration, notice shall be mailed as so required.

SEC. 50. Section 2921 of the Probate Code is amended to read:

2921. An application of the public guardian for guardianship or conservatorship of the person, the estate, or the person and estate, of a person who is under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services shall not be granted without the written consent of the department having jurisdiction of the person.

SEC. 51. Section 3088 of the Probate Code is amended to read:

3088. (a) The court may order the spouse who has the management or control of community property to apply the income or principal, or both, of the community property to the support and maintenance of the conservatee, including care, treatment, and support of a conservatee who is a patient in a state hospital under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services, as ordered by the court.

(b) In determining the amount ordered for support and maintenance, the court shall consider the following circumstances of the spouses:

- (1) The earning capacity and needs of each spouse.
- (2) The obligations and assets, including the separate property, of each spouse.
- (3) The duration of the marriage.
- (4) The age and health of the spouses.
- (5) The standard of living of the spouses.
- (6) Any other relevant factors which it considers just and equitable.

(c) At the request of any interested person, the court shall make appropriate findings with respect to the circumstances.

(d) The court may order the spouse who has the management or control of community property to make a specified monthly or other periodic payment to the conservator of the person of the conservatee or to any other person designated in the order. The court may order the spouse required to make the periodic payments to give reasonable security therefor.

(e) (1) The court may order the spouse required to make the periodic payments to assign, to the person designated in the order to receive the payments, that portion of the earnings of the spouse due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support and maintenance of the conservatee. The order operates as an assignment and is binding upon any existing or future employer upon whom a copy of the order is served. The order shall be in the form of an earnings assignment order for support prescribed by the Judicial Council for use in family law proceedings. The employer may deduct the sum of one dollar and fifty cents (\$1.50) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any execution or other assignment unless otherwise ordered by the court or unless the other assignment is made pursuant to Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code. No employer shall use any assignment authorized by this subdivision as grounds for the dismissal of that employee.

(2) As used in this subdivision, “employer” includes the United States government and any public entity as defined in Section 811.2 of the Government Code. This subdivision applies to the

money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that those moneys and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(f) The court retains jurisdiction to modify or to vacate an order made under this section where justice requires, except as to any amount that may have accrued prior to the date of the filing of the petition to modify or revoke the order. At the request of any interested person, the order of modification or revocation shall include findings of fact and may be made retroactive to the date of the filing of the petition to revoke or modify, or to any date subsequent thereto. At least 15 days before the hearing on the petition to modify or vacate the order, the petitioner shall mail a notice of the time and place of the hearing on the petition, accompanied by a copy of the petition, to the spouse who has the management or control of the community property. Notice shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1 to any other persons entitled to notice of the hearing under that chapter.

(g) In a proceeding for dissolution of the marriage or for legal separation, the court has jurisdiction to modify or vacate an order made under this section to the same extent as it may modify or vacate an order made in the proceeding for dissolution of the marriage or for legal separation.

SEC. 52. Section 3121 of the Probate Code is amended to read:

3121. The petition shall set forth all of the following information:

- (a) The name, age, and residence of each spouse.
- (b) If one or both spouses is alleged to lack legal capacity for the proposed transaction, a statement that the spouse has a conservator or a statement of the facts upon which the allegation is based.
- (c) If there is a conservator of a spouse, the name and address of the conservator, the county in which the conservatorship proceeding is pending, and the court number of the proceeding.
- (d) If a spouse alleged to lack legal capacity for the proposed transaction is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of State

Hospitals or the State Department of Developmental Services, the name and address of the institution.

(e) The names and addresses of all of the following persons:

(1) Relatives within the second degree of each spouse alleged to lack legal capacity for the proposed transaction.

(2) If the petition is to provide gifts or otherwise affect estate planning of the spouse who is alleged to lack capacity, as would be properly the subject of a petition under Article 10 (commencing with Section 2580) of Chapter 6 of Part 4 (substituted judgment) in the case of a conservatorship, the names and addresses of the persons identified in Section 2581.

(f) A sufficient description of the property that is the subject of the proposed transaction.

(g) An allegation that the property is community property, and, if the proposed transaction involves property in which a spouse also has a separate property interest, an allegation of good cause to include that separate property in the transaction.

(h) The estimated value of the property.

(i) The terms and conditions of the proposed transaction, including the names of all parties thereto.

(j) The relief requested.

SEC. 53. Section 3140 of the Probate Code is amended to read:

3140. (a) A conservator served pursuant to this article shall, and the Director of State Hospitals or the Director of Developmental Services given notice pursuant to Section 1461 may, appear at the hearing and represent a spouse alleged to lack legal capacity for the proposed transaction.

(b) The court may, in its discretion and if necessary, appoint an investigator to review the proposed transaction and report to the court regarding its advisability.

(c) If the court determines that a spouse alleged to lack legal capacity has not competently retained independent counsel, the court may in its discretion appoint the public guardian, public administrator, or a guardian ad litem to represent the interests of the spouse.

(d) (1) If a spouse alleged to lack legal capacity is unable to retain legal counsel, upon request of the spouse, the court shall appoint the public defender or private counsel under Section 1471 to represent the spouse and, if that appointment is made, Section 1472 applies.

(2) If the petition proposes a transfer of substantial assets to the petitioner from the other spouse and the court determines that the spouse has not competently retained independent counsel for the proceeding, the court may, in its discretion, appoint counsel for the other spouse if the court determines that appointment would be helpful to resolve the matter or necessary to protect the interests of the other spouse.

(e) Except as provided in paragraph (1) of subdivision (d), the court may fix a reasonable fee, to be paid out of the proceeds of the transaction or otherwise as the court may direct, for all services rendered by privately engaged counsel, the public guardian, public administrator, or guardian ad litem, and by counsel for such persons.

(f) The court may order the cost of the review and report by a court investigator pursuant to subdivision (b) to be paid out of the proceeds of the transaction or otherwise as the court may direct, if the court determines that its order would not cause a hardship.

SEC. 54. Section 3602 of the Probate Code is amended to read:

3602. (a) If there is no guardianship of the estate of the minor or conservatorship of the estate of the person with a disability, the remaining balance of the money and other property, after payment of all expenses, costs, and fees as approved and allowed by the court under Section 3601, shall be paid, delivered, deposited, or invested as provided in Article 2 (commencing with Section 3610).

(b) Except as provided in subdivisions (c) and (d), if there is a guardianship of the estate of the minor or conservatorship of the estate of the person with a disability, the remaining balance of the money and other property, after payment of all expenses, costs, and fees as approved and allowed by the court under Section 3601, shall be paid or delivered to the guardian or conservator of the estate. Upon application of the guardian or conservator, the court making the order or giving the judgment referred to in Section 3600 or the court in which the guardianship or conservatorship proceeding is pending may, with or without notice, make an order that all or part of the money paid or to be paid to the guardian or conservator under this subdivision be deposited or invested as provided in Section 2456.

(c) Upon ex parte petition of the guardian or conservator or upon petition of any person interested in the guardianship or conservatorship estate, the court making the order or giving the

judgment referred to in Section 3600 may for good cause shown order one or more of the following:

(1) That all or part of the remaining balance of money not become a part of the guardianship or conservatorship estate and instead be deposited in an insured account in a financial institution in this state, or in a single-premium deferred annuity, subject to withdrawal only upon authorization of the court.

(2) If there is a guardianship of the estate of the minor, that all or part of the remaining balance of money and other property not become a part of the guardianship estate and instead be transferred to a custodian for the benefit of the minor under the California Uniform Transfers to Minors Act, Part 9 (commencing with Section 3900).

(3) That all or part of the remaining balance of money and other property not become a part of the guardianship estate and, instead, be transferred to the trustee of a trust which is either created by, or approved of, in the order or judgment described in Section 3600. This trust shall be revocable by the minor upon attaining 18 years of age, and shall contain other terms and conditions, including, but not limited to, terms and conditions concerning trustee's accounts and trustee's bond, as the court determines to be necessary to protect the minor's interests.

(d) Upon petition of the guardian, conservator, or any person interested in the guardianship or conservatorship estate, the court making the order or giving the judgment referred to in Section 3600 may order that all or part of the remaining balance of money not become a part of the guardianship or conservatorship estate and instead be paid to a special needs trust established under Section 3604 for the benefit of the minor or person with a disability.

(e) If the petition is by a person other than the guardian or conservator, notice of hearing on a petition under subdivision (c) shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

(f) Notice of the time and place of hearing on a petition under subdivision (d), and a copy of the petition, shall be mailed to the State Director of Health Care Services, the Director of State Hospitals, and the Director of Developmental Services at the office of each director in Sacramento at least 15 days before the hearing.

SEC. 55. Section 3604 of the Probate Code is amended to read:

3604. (a) (1) If a court makes an order under Section 3602 or 3611 that money of a minor or person with a disability be paid to a special needs trust, the terms of the trust shall be reviewed and approved by the court and shall satisfy the requirements of this section. The trust is subject to continuing jurisdiction of the court, and is subject to court supervision to the extent determined by the court. The court may transfer jurisdiction to the court in the proper county for commencement of a proceeding as determined under Section 17005.

(2) If the court referred to in subdivision (a) could have made an order under Section 3602 or 3611 to place that money into a special needs trust, but that order was not requested, a parent, guardian, conservator, or other interested person may petition a court that exercises jurisdiction pursuant to Section 800 for that order. In doing so, notice shall be provided pursuant to subdivisions (e) and (f) of Section 3602, or subdivision (c) of Section 3611, and that notice shall be given at least 15 days before the hearing.

(b) A special needs trust may be established and continued under this section only if the court determines all of the following:

(1) That the minor or person with a disability has a disability that substantially impairs the individual's ability to provide for the individual's own care or custody and constitutes a substantial handicap.

(2) That the minor or person with a disability is likely to have special needs that will not be met without the trust.

(3) That money to be paid to the trust does not exceed the amount that appears reasonably necessary to meet the special needs of the minor or person with a disability.

(c) If at any time it appears (1) that any of the requirements of subdivision (b) are not satisfied or the trustee refuses without good cause to make payments from the trust for the special needs of the beneficiary, and (2) that the State Department of Health Care Services, the State Department of State Hospitals, the State Department of Developmental Services, or a county or city and county in this state has a claim against trust property, that department, county, or city and county may petition the court for an order terminating the trust.

(d) A court order under Section 3602 or 3611 for payment of money to a special needs trust shall include a provision that all statutory liens in favor of the State Department of Health Care

Services, the State Department of State Hospitals, the State Department of Developmental Services, and any county or city and county in this state shall first be satisfied.

SEC. 56. Section 3605 of the Probate Code is amended to read:

3605. (a) This section applies only to a special needs trust established under Section 3604 on or after January 1, 1993.

(b) While the special needs trust is in existence, the statute of limitations otherwise applicable to claims of the State Department of Health Care Services, the State Department of State Hospitals, the State Department of Developmental Services, and any county or city and county in this state is tolled. Notwithstanding any provision in the trust instrument, at the death of the special needs trust beneficiary or on termination of the trust, the trust property is subject to claims of the State Department of Health Care Services, the State Department of State Hospitals, the State Department of Developmental Services, and any county or city and county in this state to the extent authorized by law as if the trust property is owned by the beneficiary or is part of the beneficiary's estate.

(c) At the death of the special needs trust beneficiary or on termination of the trust, the trustee shall give notice of the beneficiary's death or the trust termination, in the manner provided in Section 1215, to all of the following:

(1) The State Department of Health Care Services, the State Department of State Hospitals, and the State Department of Developmental Services, addressed to the director of that department at the Sacramento office of the director.

(2) Any county or city and county in this state that has made a written request to the trustee for notice, addressed to that county or city and county at the address specified in the request.

(d) Failure to give the notice required by subdivision (c) prevents the running of the statute of limitations against the claim of the department, county, or city and county not given the notice.

(e) The department, county, or city and county has four months after notice is given in which to make a claim with the trustee. If the trustee rejects the claim, the department, county, or city and county making the claim may petition the court for an order under Chapter 3 (commencing with Section 17200) of Part 5 of Division 9, directing the trustee to pay the claim. A claim made under this subdivision shall be paid as a preferred claim prior to any other

distribution. If trust property is insufficient to pay all claims under this subdivision, the trustee shall petition the court for instructions and the claims shall be paid from trust property as the court deems just.

(f) If trust property is distributed before expiration of four months after notice is given without payment of the claim, the department, county, or city and county has a claim against the distributees to the full extent of the claim, or each distributee's share of trust property, whichever is less. The claim against distributees includes interest at a rate equal to that earned in the Pooled Money Investment Account, Article 4.5 (commencing with Section 16480) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, from the date of distribution or the date of filing the claim, whichever is later, plus other accruing costs as in the case of enforcement of a money judgment.

SEC. 57. Section 3611 of the Probate Code is amended to read:

3611. In any case described in Section 3610, the court making the order or giving the judgment referred to in Section 3600 shall, upon application of counsel for the minor or person with a disability, order any one or more of the following:

(a) That a guardian of the estate or conservator of the estate be appointed and that the remaining balance of the money and other property be paid or delivered to the person so appointed.

(b) That the remaining balance of any money paid or to be paid be deposited in an insured account in a financial institution in this state, or in a single-premium deferred annuity, subject to withdrawal only upon the authorization of the court, and that the remaining balance of any other property delivered or to be delivered be held on conditions the court determines to be in the best interest of the minor or person with a disability.

(c) After a hearing by the court, that the remaining balance of any money and other property be paid to a special needs trust established under Section 3604 for the benefit of the minor or person with a disability. Notice of the time and place of the hearing and a copy of the petition shall be mailed to the State Director of Health Care Services, the Director of State Hospitals, and the Director of Developmental Services at the office of each director in Sacramento at least 15 days before the hearing.

(d) If the remaining balance of the money to be paid or delivered does not exceed twenty thousand dollars (\$20,000), that all or any

part of the money be held on any other conditions the court in its discretion determines to be in the best interest of the minor or person with a disability.

(e) If the remaining balance of the money and other property to be paid or delivered does not exceed five thousand dollars (\$5,000) in value and is to be paid or delivered for the benefit of a minor, that all or any part of the money and the other property be paid or delivered to a parent of the minor, without bond, upon the terms and under the conditions specified in Article 1 (commencing with Section 3400) of Chapter 2.

(f) If the remaining balance of the money and other property to be paid or delivered is to be paid or delivered for the benefit of the minor, that all or any part of the money and other property be transferred to a custodian for the benefit of the minor under the California Uniform Transfers to Minors Act, Part 9 (commencing with Section 3900).

(g) That the remaining balance of the money and other property be paid or delivered to the trustee of a trust which is created by, or approved of, in the order or judgment referred to in Section 3600. This trust shall be revocable by the minor upon attaining the age of 18 years, and shall contain other terms and conditions, including, but not limited to, terms and conditions concerning trustee's accounts and trustee's bond, as the court determines to be necessary to protect the minor's interests.

(h) That the remaining balance of any money paid or to be paid be deposited with the county treasurer, if all of the following conditions are met:

(1) The county treasurer has been authorized by the county board of supervisors to handle the deposits.

(2) The county treasurer shall receive and safely keep all money deposited with the county treasurer pursuant to this subdivision, shall pay the money out only upon the order of the court, and shall credit each estate with the interest earned by the funds deposited less the county treasurer's actual cost authorized to be recovered under Section 27013 of the Government Code.

(3) The county treasurer and sureties on the official bond of the county treasurer are responsible for the safekeeping and payment of the money.

(4) The county treasurer shall ensure that the money deposited is to earn interest or dividends, or both, at the highest rate which the county can reasonably obtain as a prudent investor.

(5) Funds so deposited with the county treasurer shall only be invested or deposited in compliance with the provisions governing the investment or deposit of state funds set forth in Chapter 5 (commencing with Section 16640) of Part 2 of Division 4 of Title 2 of the Government Code, the investment or deposit of county funds set forth in Chapter 4 (commencing with Section 53600) of Part 1 of Division 2 of Title 5 of the Government Code, or as authorized under Chapter 6 (commencing with Section 2400) of Part 4.

(i) That the remaining balance of the money and other property be paid or delivered to the person with a disability.

SEC. 58. Section 1078 of the Welfare and Institutions Code is amended to read:

1078. To the extent that funding is available, the department, in consultation with the State Department of State Hospitals, shall develop training in the treatment of children and adolescents for mental health disorders and shall provide training to all appropriate mental health professionals.

SEC. 59. Section 3003 of the Welfare and Institutions Code is amended to read:

3003. The Director of Corrections may enter into agreements with the Director of State Hospitals or the Director of Developmental Services pursuant to which persons committed to the custody of either for narcotic addiction or imminent narcotic addiction can be transferred to an institution under the jurisdiction of the other.

SEC. 60. Section 4308 of the Welfare and Institutions Code is amended to read:

4308. (a) If a vacancy occurs in a hospital under the jurisdiction of the Director of State Hospitals, he or she shall appoint, as provided in Section 4301, a clinical director, a hospital administrator, a hospital director, and program directors.

(b) A hospital administrator shall be a college graduate, preferably with an advanced degree in hospital, business, or public administration and shall have had experience in this area. He or she shall receive a salary that is competitive with other private and public mental hospital administrators.

(c) A clinical director for a state hospital for the mentally disordered shall be a physician who has passed, or shall pass, an examination for a license to practice medicine in California and shall be a qualified specialist in a branch of medicine that includes diseases affecting the brain and nervous system. The clinical director for any state hospital shall be well qualified by training or experience to have proven skills in mental hospital program administration.

(d) The hospital director shall be either the hospital administrator or the clinical director. He or she shall be selected based on his or her overall knowledge of the hospital, its programs, and its relationship to its community, and on his or her demonstrated abilities to administer a large facility.

(e) The standards for the professional qualifications of a program director shall be established by the Director of State Hospitals for each patient program. The director shall not adopt any regulations that prohibit a licensed psychiatrist, psychologist, psychiatric technician, or clinical social worker from employment in a patient program in any professional, administrative, or technical position; provided, however, that the program director of a medical-surgical unit shall be a licensed physician.

(f) If the program director is not a physician, a physician shall be available to assume responsibility for all those acts of diagnosis, treatment, or prescribing or ordering of drugs that may only be performed by a licensed physician.

SEC. 61. Section 4314 of the Welfare and Institutions Code is amended to read:

4314. The Director of State Hospitals may set aside and designate any space on the grounds of any of the institutions under the jurisdiction of the department that is not needed for other authorized purposes, to enable the institution to establish and maintain therein a store or canteen for the sale to or for the benefit of patients of the institution of candies, cigarettes, sundries, and other articles. The stores shall be conducted subject to the rules and regulations of the department and the rental, utility, and service charges shall be fixed as will reimburse the institutions for the cost thereof. The stores when conducted under the direction of a hospital administrator shall be operated on a nonprofit basis but any profits derived shall be deposited in the benefit fund of each institution as set forth in Section 4125.

Before any store is authorized or established, the Director of State Hospitals shall first determine that the facilities are not being furnished adequately by private enterprise in the community where it is proposed to locate the store, and may hold public hearings or cause surveys to be made, to determine the same.

The Director of State Hospitals may rent space to private individuals, for the maintenance of a store or canteen at any of these institutions upon any terms and subject to any regulations that are approved by the Department of General Services, in accordance with the provisions of Section 13109 of the Government Code. The terms imposed shall provide that the rental, utility, and service charges to be paid shall be fixed so as to reimburse the institution for the cost thereof and any additional charges required to be paid shall be deposited in the benefit fund of the institution as set forth in Section 4125.

SEC. 62. Section 5304 of the Welfare and Institutions Code is amended to read:

5304. (a) The court shall remand a person named in the petition for postcertification treatment to the custody of the State Department of State Hospitals or to a licensed health facility designated by the county of residence of that person for a further period of intensive treatment not to exceed 180 days from the date of court judgment, if the court or jury finds that the person named in the petition for postcertification treatment has done any of the following:

(1) Attempted, inflicted, or made a serious threat of substantial physical harm upon the person of another after having been taken into custody, and while in custody, for evaluation and treatment, and who, as a result of mental disorder or mental defect, presents a demonstrated danger of inflicting substantial physical harm upon others.

(2) Attempted or inflicted physical harm upon the person of another, that act having resulted in his or her being taken into custody, and who, as a result of mental disorder or mental defect, presents a demonstrated danger of inflicting substantial physical harm upon others.

(3) Expressed a serious threat of substantial physical harm upon the person of another within seven days of being taken into custody, that threat having at least in part resulted in his or her being taken into custody, and who presents, as a result of mental disorder or

mental defect, a demonstrated danger of inflicting substantial physical harm upon others.

(b) The person shall be released from involuntary treatment at the expiration of 180 days unless the public officer, pursuant to Section 5114, files a new petition for postcertification treatment on the grounds that he or she has attempted, inflicted, or made a serious threat of substantial physical harm upon another during his or her period of postcertification treatment, and he or she is a person who by reason of mental disorder or mental defect, presents a demonstrated danger of inflicting substantial physical harm upon others. The new petition for postcertification treatment shall be filed in the superior court in which the original petition for postcertification was filed.

(c) The county from which the person was remanded shall bear any transportation costs incurred pursuant to this section.

SEC. 63. Section 5328.15 of the Welfare and Institutions Code is amended to read:

5328.15. All information and records obtained in the course of providing services under Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7000), to either voluntary or involuntary recipients of services shall be confidential. Information and records may be disclosed, however, notwithstanding any other provision of law, as follows:

(a) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Health Services, and who are licensed or registered health professionals, and to authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate health facilities and community care facilities and to ensure that the standards of care and services provided in such facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) of, and Chapter 3 (commencing with Section 1500) of, Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in

relation thereto. The confidential information may be used by the State Department of Health Services or the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names which are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Health Services or the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Health Services or the State Department of Social Services shall not contain the name of the patient.

(b) To any board which licenses and certifies professionals in the fields of mental health pursuant to state law, when the Director of State Hospitals has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of that board and the records are relevant to the violation. This information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the patient.

SEC. 64. Section 5329 of the Welfare and Institutions Code is amended to read:

5329. Nothing in this chapter shall be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards set by the Director of State Hospitals.

SEC. 65. Section 6254 of the Welfare and Institutions Code is amended to read:

6254. Wherever provision is made in this code for an order of commitment by a superior court, the order of commitment shall be in substantially the following form:

In the Superior Court of the State of California
For the County of _____

The People
For the Best Interest and Protection of

as a _____,

and Concerning
_____ and
_____, Respondents

Order for Care,
Hospitalization
or Commitment

The petition dated _____, alleging that _____, having been presented to this court on the _____ day of _____, 19____, and an order of detention issued thereon by a judge of the superior court of this county, and a return of the said order:

And it further appearing that the provisions of Sections 6250 to 6254, inclusive, of the Welfare and Institutions Code have been complied with;

And it further appearing that Dr. _____ and Dr. _____, two regularly appointed and qualified medical examiners of this county, have made a personal examination of the alleged _____, and have made and signed the certificate of the medical examiners, which certificate is attached hereto and made a part hereof;

Now therefore, after examination and certificate made as aforesaid the court is satisfied and believes that _____ is a _____ and is so _____.

It is ordered, adjudged and decreed:

That _____ is a _____ and that _he

* (a) Be cared for and detained in _____, a county psychiatric hospital, a community mental health service, or a licensed sanitarium or hospital for the care of the mentally disordered until the further order of the court, or

* (b) Be cared for at _____, until the further order of the court, or

* (c) Be committed to the State Department of State Hospitals for placement in a state hospital, or

* (d) Be committed to a facility of the Veterans Administration or other agency of the United States, to wit: _____ at _____.

It is further ordered and directed that _____ of this county, take, convey and deliver _____ to the proper authorities of the hospital or establishment designated herein to be cared for as provided by law.

Dated this _____ day of _____, 19__.

Judge of the Superior Court

* Strike out when not applicable.

SEC. 66. Section 6603 of the Welfare and Institutions Code is amended to read:

6603. (a) A person subject to this article shall be entitled to a trial by jury, to the assistance of counsel, to the right to retain experts or professional persons to perform an examination on his or her behalf, and to have access to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court shall appoint counsel to assist him or her, and, upon the person's request, assist the person in obtaining an expert or professional person to perform an examination or participate in the trial on the person's behalf. Any right that may exist under this section to request DNA testing on prior cases shall be made in conformity with Section 1405 of the Penal Code.

(b) The attorney petitioning for commitment under this article shall have the right to demand that the trial be before a jury.

(c) (1) If the attorney petitioning for commitment under this article determines that updated evaluations are necessary in order to properly present the case for commitment, the attorney may request the State Department of State Hospitals to perform updated evaluations. If one or more of the original evaluators is no longer available to testify for the petitioner in court proceedings, the attorney petitioning for commitment under this article may request the State Department of State Hospitals to perform replacement evaluations. When a request is made for updated or replacement evaluations, the State Department of State Hospitals shall perform the requested evaluations and forward them to the petitioning attorney and to the counsel for the person subject to this article. However, updated or replacement evaluations shall not be performed except as necessary to update one or more of the original evaluations or to replace the evaluation of an evaluator who is no longer available to testify for the petitioner in court proceedings. These updated or replacement evaluations shall include review of available medical and psychological records, including treatment records, consultation with current treating clinicians, and interviews of the person being evaluated, either voluntarily or by court order.

If an updated or replacement evaluation results in a split opinion as to whether the person subject to this article meets the criteria for commitment, the State Department of State Hospitals shall conduct two additional evaluations in accordance with subdivision (f) of Section 6601.

(2) For purposes of this subdivision, “no longer available to testify for the petitioner in court proceedings” means that the evaluator is no longer authorized by the Director of State Hospitals to perform evaluations regarding sexually violent predators as a result of any of the following:

(A) The evaluator has failed to adhere to the protocol of the State Department of State Hospitals.

(B) The evaluator’s license has been suspended or revoked.

(C) The evaluator is unavailable pursuant to Section 240 of the Evidence Code.

(d) Nothing in this section shall prevent the defense from presenting otherwise relevant and admissible evidence.

(e) If the person subject to this article or the petitioning attorney does not demand a jury trial, the trial shall be before the court without a jury.

(f) A unanimous verdict shall be required in any jury trial.

(g) The court shall notify the State Department of State Hospitals of the outcome of the trial by forwarding to the department a copy of the minute order of the court within 72 hours of the decision.

(h) Nothing in this section shall limit any legal or equitable right that a person may have to request DNA testing.

SEC. 67. Section 6603.5 of the Welfare and Institutions Code is amended to read:

6603.5. No employee or agent of the Department of Corrections and Rehabilitation, the Board of Parole Hearings, or the State Department of State Hospitals shall disclose to any person, except to employees or agents of each named department, the prosecutor, the respondent’s counsel, licensed private investigators hired or appointed for the respondent, or other persons or agencies where authorized or required by law, the name, address, telephone number, or other identifying information of a person who was involved in a civil commitment hearing under this article as the victim of a sex offense except where authorized or required by law.

SEC. 68. Section 6604.1 of the Welfare and Institutions Code is amended to read:

6604.1. (a) The indeterminate term of commitment provided for in Section 6604 shall commence on the date upon which the court issues the initial order of commitment pursuant to that section.

(b) The person shall be evaluated by two practicing psychologists or psychiatrists, or by one practicing psychologist and one practicing psychiatrist, designated by the State Department of State Hospitals. The provisions of subdivisions (c) to (i), inclusive, of Section 6601 shall apply to evaluations performed for purposes of extended commitments. The rights, requirements, and procedures set forth in Section 6603 shall apply to all commitment proceedings.

SEC. 69. Section 6607 of the Welfare and Institutions Code is amended to read:

6607. (a) If the Director of State Hospitals determines that the person's diagnosed mental disorder has so changed that the person is not likely to commit acts of predatory sexual violence while under supervision and treatment in the community, the director shall forward a report and recommendation for conditional release in accordance with Section 6608 to the county attorney designated in subdivision (i) of Section 6601, the attorney of record for the person, and the committing court.

(b) When a report and recommendation for conditional release is filed by the Director of State Hospitals pursuant to subdivision (a), the court shall set a hearing in accordance with the procedures set forth in Section 6608.

SEC. 70. Section 6609.1 of the Welfare and Institutions Code is amended to read:

6609.1. (a) (1) When the State Department of State Hospitals makes a recommendation to the court for community outpatient treatment for any person committed as a sexually violent predator, or when a person who is committed as a sexually violent predator pursuant to this article has petitioned a court pursuant to Section 6608 for conditional release under supervision and treatment in the community pursuant to a conditional release program, or has petitioned a court pursuant to Section 6608 for subsequent unconditional discharge, and the department is notified, or is aware, of the filing of the petition, and when a community placement

location is recommended or proposed, the department shall notify the sheriff or chief of police, or both, the district attorney, or the county's designated counsel, that have jurisdiction over the following locations:

(A) The community in which the person may be released for community outpatient treatment.

(B) The community in which the person maintained his or her last legal residence as defined by Section 3003 of the Penal Code.

(C) The county that filed for the person's civil commitment pursuant to this article.

(2) The department shall also notify the Sexually Violent Predator Parole Coordinator of the Department of Corrections and Rehabilitation, if the person is otherwise subject to parole pursuant to Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code. The department shall also notify the Department of Justice.

(3) The notice shall be given when the department or its designee makes a recommendation under subdivision (e) of Section 6608 or proposes a placement location without making a recommendation, or when any other person proposes a placement location to the court and the department or its designee is made aware of the proposal.

(4) The notice shall be given at least 30 days prior to the department's submission of its recommendation to the court in those cases in which the department recommended community outpatient treatment under Section 6607, or in which the department or its designee is recommending or proposing a placement location, or in the case of a petition or placement proposal by someone other than the department or its designee, within 48 hours after becoming aware of the petition or placement proposal.

(5) The notice shall state that it is being made under this section and include all of the following information concerning each person committed as a sexually violent predator who is proposed or is petitioning to receive outpatient care in a conditional release program in that city or county:

(A) The name, proposed placement address, date of commitment, county from which committed, proposed date of placement in the conditional release program, fingerprints, and a

glossy photograph no smaller than 3 1/8 by 3 1/8 inches in size, or clear copies of the fingerprints and photograph.

(B) The date, place, and time of the court hearing at which the location of placement is to be considered and a proof of service attesting to the notice's mailing in accordance with this subdivision.

(C) A list of agencies that are being provided this notice and the addresses to which the notices are being sent.

(b) Those agencies receiving the notice referred to in paragraphs (1) and (2) of subdivision (a) may provide written comment to the department and the court regarding the impending release, placement, location, and conditions of release. All community agency comments shall be combined and consolidated. The written comment shall be filed with the court at the time that the comment is provided to the department. The written comment shall identify differences between the comment filed with the court and that provided to the department, if any. In addition, a single agency in the community of the specific proposed or recommended placement address may suggest appropriate, alternative locations for placement within that community. A copy of the suggested alternative placement location shall be filed with the court at the time that the suggested placement location is provided to the department. The State Department of State Hospitals shall issue a written statement to the commenting agencies and to the court within 10 days of receiving the written comments with a determination as to whether to adjust the release location or general terms and conditions, and explaining the basis for its decision. In lieu of responding to the individual community agencies or individuals, the department's statement responding to the community comment shall be in the form of a public statement.

(c) The agencies' comments and department's statements shall be considered by the court which shall, based on those comments and statements, approve, modify, or reject the department's recommendation or proposal regarding the community or specific address to which the person is scheduled to be released or the conditions that shall apply to the release if the court finds that the department's recommendation or proposal is not appropriate.

(d) (1) When the State Department of State Hospitals makes a recommendation to pursue recommitment, makes a recommendation not to pursue recommitment, or seeks a judicial review of commitment status pursuant to subdivision (f) of Section

6605, of any person committed as a sexually violent predator, it shall provide written notice of that action to the sheriff or chief of police, or both, and to the district attorney, that have jurisdiction over the following locations:

(A) The community in which the person maintained his or her last legal residence as defined by Section 3003 of the Penal Code.

(B) The community in which the person will probably be released, if recommending not to pursue recommitment.

(C) The county that filed for the person's civil commitment pursuant to this article.

(2) The State Department of State Hospitals shall also notify the Sexually Violent Predator Parole Coordinator of the Department of Corrections and Rehabilitation, if the person is otherwise subject to parole pursuant to Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code. The State Department of State Hospitals shall also notify the Department of Justice. The notice shall be made at least 15 days prior to the department's submission of its recommendation to the court.

(3) Those agencies receiving the notice referred to in this subdivision shall have 15 days from receipt of the notice to provide written comment to the department regarding the impending release. At the time that the written comment is made to the department, a copy of the written comment shall be filed with the court by the agency or agencies making the comment. Those comments shall be considered by the department, which may modify its decision regarding the community in which the person is scheduled to be released, based on those comments.

(e) (1) If the court orders the release of a sexually violent predator, the court shall notify the Sexually Violent Predator Parole Coordinator of the Department of Corrections and Rehabilitation. The Department of Corrections and Rehabilitation shall notify the Department of Justice, the State Department of State Hospitals, the sheriff or chief of police or both, and the district attorney, that have jurisdiction over the following locations:

(A) The community in which the person is to be released.

(B) The community in which the person maintained his or her last legal residence as defined in Section 3003 of the Penal Code.

(2) The Department of Corrections and Rehabilitation shall make the notifications required by this subdivision regardless of

whether the person released will be serving a term of parole after release by the court.

(f) If the person is otherwise subject to parole pursuant to Article 1 (commencing with Section 300) of Chapter 8 of Title 1 of Part 3 of the Penal Code, to allow adequate time for the Department of Corrections and Rehabilitation to make appropriate parole arrangements upon release of the person, the person shall remain in physical custody for a period not to exceed 72 hours or until parole arrangements are made by the Sexually Violent Predator Parole Coordinator of the Department of Corrections and Rehabilitation, whichever is sooner. To facilitate timely parole arrangements, notification to the Sexually Violent Predator Parole Coordinator of the Department of Corrections and Rehabilitation of the pending release shall be made by telephone or facsimile and, to the extent possible, notice of the possible release shall be made in advance of the proceeding or decision determining whether to release the person.

(g) The notice required by this section shall be made whether or not a request has been made pursuant to Section 6609.

(h) The time limits imposed by this section are not applicable when the release date of a sexually violent predator has been advanced by a judicial or administrative process or procedure that could not have reasonably been anticipated by the State Department of State Hospitals and where, as the result of the time adjustments, there is less than 30 days remaining on the commitment before the inmate's release, but notice shall be given as soon as practicable.

(i) In the case of any subsequent community placement or change of community placement of a conditionally released sexually violent predator, notice required by this section shall be given under the same terms and standards as apply to the initial placement, except in the case of an emergency where the sexually violent predator must be moved to protect the public safety or the safety of the sexually violent predator. In the case of an emergency, the notice shall be given as soon as practicable, and the affected communities may comment on the placement as described in subdivision (b).

(j) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 71. Section 6609.2 of the Welfare and Institutions Code is amended to read:

6609.2. (a) When any sheriff or chief of police is notified by the State Department of State Hospitals of its recommendation to the court concerning the disposition of a sexually violent predator pursuant to subdivision (a) or (b) of Section 6609.1, that sheriff or chief of police may notify any person designated by the sheriff or chief of police as an appropriate recipient of the notice.

(b) A law enforcement official authorized to provide notice pursuant to this section, and the public agency or entity employing the law enforcement official, shall not be liable for providing or failing to provide notice pursuant to this section.

SEC. 72. Section 7501 of the Welfare and Institutions Code is amended to read:

7501. (a) The Department of General Services, in cooperation with the State Department of Developmental Services and the State Department of State Hospitals, may sell or lease property within the boundaries of Camarillo State Hospital described in subdivision (b) to Ventura County which shall sublet the property to a nonprofit organization for the purpose of constructing and operating a children's crisis care center to provide an alternative to emergency shelter home placement. The facility shall provide for an interagency program for the delivery of medical, educational, and mental health screening, crisis intervention, short-term mental health treatment, and case management services for children who are removed from their families due to abuse, neglect, abandonment, sexual molestation, or who are in acute mental health crisis requiring short-term nonhospital care and supervision described in subdivision (c).

(b) (1) The property is a 22.8 acre portion of Rancho Guadaluasca, in the County of Ventura, State of California, as described in the Letters of Patent dated September 1, 1873, recorded in Book 1, Page 153 of Patents, in the office of the County Recorder of the county and described as follows:

Beginning at the northwesterly terminus of the Fourth Course of that parcel described in the deed recorded on June 9, 1932, in Book 358, Page 371 of Official Records, in said Recorder's Office; thence, along said Fourth Course,

- 1st — South 47°23'33" East 1150.00 feet to the northeasterly terminus of the 38th Course of Parcel 1 described in the deed recorded on April 17, 1973, in Book 4101, Page 237 of said Official Records; thence, along said 38th Course,
- 2nd — South 42°37'00" West 1026.00 feet; thence, parallel with the First Course herein,
- 3rd — North 47°23'33" West 800.00 feet; thence, parallel with the Second Course herein,
- 4th — North 42°37'00" East 666.00 feet; thence, parallel with the First Course herein,
- 5th — North 47°23'33" West 350.00 feet to the intersection with the Third Course of said parcel described in the deed recorded in Book 358, Page 371 of said Official Records; thence, along said Third Course,
- 6th — North 42°37'00" East 360.00 feet to the point of beginning.

(2) Notwithstanding any other provision of this section, if the parcel described in this subdivision is purchased or leased from the state, 50 percent of the proceeds shall accrue to the State Department of State Hospitals and 50 percent to the Department of Developmental Services.

(3) The Department of General Services may enter into a sale or lease at less than fair market value. The department is authorized to lease the parcel for not less than 40, but not more than 99 years.

(c) Any of the following children are eligible for placement in the children's crisis care center:

(1) Any child who has been placed in protective custody and legally detained under Section 300 as a victim of abuse, neglect, or abandonment. The child shall be one day through 17 years of age. An infant born suffering from the result of perinatal substance abuse, or an infant who requires shelter care because of physical abuse resulting in a cast on the arm or leg shall also be eligible.

(2) Any dependent minor of the juvenile court whose placement has been disrupted, and who is in need of temporary placement, as well as crisis intervention and assessment services.

(3) Any voluntarily placed emotionally disturbed child in crisis as determined appropriate by the mental health case manager. The purpose of this placement is to deescalate the crisis, provide assessment and diagnostic services for a recommendation of appropriate treatment and ongoing placement, and to reduce the utilization of private or state psychiatric hospitalization.

(4) Any eligible child who is a resident of any county in California, subject to the availability of space.

SEC. 73. Section 7501.5 of the Welfare and Institutions Code is amended to read:

7501.5. (a) The Department of General Services, in cooperation with the State Department of Developmental Services and the State Department of State Hospitals, may lease property within the boundaries of Camarillo State Hospital described in subdivision (c) to Ventura County, which may sublet the property to one or more responsible organizations selected by Ventura County for the purposes of constructing housing or operating residential care services, or both, designed to meet the identified treatment and rehabilitation needs of mentally disordered persons from Ventura County. The lease between the state and Ventura County shall contain a provision that requires that the lease shall terminate and that full title, possession, and control of the property shall return to the state if permits have not been issued for construction of the housing prior to January 1, 1995. The sublease between Ventura County and the responsible bidder shall contain a provision that requires that permits for construction of the housing be issued prior to January 1, 1995, and shall contain a provision that requires that the sublease shall terminate and full title, possession, and control of the property shall return to the state if permits have not been issued for construction of the housing prior to January 1, 1995.

(b) In selecting a service provider pursuant to subdivision (a), Ventura County shall only consider a sublease with organizations that comply with subdivision (b) of Section 5705 and Section 523 of Title 9 of the California Code of Regulations.

(c) (1) The property consists of a 15 plus acre portion of a 58.5 acre parcel at Camarillo State Hospital that has previously been declared surplus by the State Department of Developmental Services. The acreage is on Lewis Road at the entrance to Camarillo State Hospital. Specific metes and bounds shall be established for the 15 plus acre parcel prior to the actual lease of the property.

(2) The Department of General Services may enter into a lease at less than fair market value. The department is authorized to lease the parcel for not less than 40, and not more than 99, years.

(d) If there is available space, mentally disordered persons from Los Angeles, San Luis Obispo, and Santa Barbara Counties may

be eligible for placement at this center if an agreement to that effect is entered into between those counties and Ventura County. The agreement shall specify that Los Angeles, San Luis Obispo, and Santa Barbara Counties shall retain responsibility for monitoring and maintenance of mentally disordered persons placed through those agreements and for payment of costs incurred or services rendered by Ventura County.

SEC. 74. Section 7509 of the Welfare and Institutions Code is amended to read:

7509. The State Department of State Hospitals and the State Department of Developmental Services shall prescribe and publish instructions and forms, in relation to the commitment and admission of patients, and may include in them any interrogatories as it deems necessary or useful. These instructions and forms shall be furnished to anyone applying therefor, and shall also be sent in sufficient numbers to the county clerks of the several counties of the state.

SEC. 75. Section 8104 of the Welfare and Institutions Code is amended to read:

8104. The State Department of State Hospitals shall maintain in a convenient central location and shall make available to the Department of Justice those records that the State Department of State Hospitals has in its possession that are necessary to identify persons who come within Section 8100 or 8103. These records shall be made available to the Department of Justice upon request. The Department of Justice shall make these requests only with respect to its duties with regard to applications for permits for, or to carry, or the possession, purchase, or transfer of, explosives as defined in Section 12000 of the Health and Safety Code, devices defined in Section 16250, 16530, or 16640 of the Penal Code, in subdivisions (a) to (d), inclusive, of Section 16520 of the Penal Code, or in subdivision (a) of Section 16840 of the Penal Code, machineguns as defined in Section 16880 of the Penal Code, short-barreled shotguns or short-barreled rifles as defined in Sections 17170 and 17180 of the Penal Code, assault weapons as defined in Section 30510 of the Penal Code, and destructive devices as defined in Section 16460 of the Penal Code, or to determine the eligibility of a person to acquire, carry, or possess a firearm, explosive, or destructive device by a person who is subject to a criminal investigation, a part of which involves the acquisition,

carrying, or possession of a firearm by that person. These records shall not be furnished or made available to any person unless the department determines that disclosure of any information in the records is necessary to carry out its duties with respect to applications for permits for, or to carry, or the possession, purchase, or transfer of, explosives, destructive devices, devices as defined in Section 16250, 16530, or 16640 of the Penal Code, in subdivisions (a) to (d), inclusive, of Section 16520 of the Penal Code, or in subdivision (a) of Section 16840 of the Penal Code, short-barreled shotguns, short-barreled rifles, assault weapons, and machineguns, or to determine the eligibility of a person to acquire, carry, or possess a firearm, explosive, or destructive device by a person who is subject to a criminal investigation, a part of which involves the acquisition, carrying, or possession of a firearm by that person.

SEC. 76. Section 10506 of the Welfare and Institutions Code is amended to read:

10506. (a) Except as otherwise required by Sections 10614 and 14100.5, the State Department of Health Care Services (Genetically Handicapped Persons, CCS, CHDP, and the caseload programs in the Genetic Disease Branch), State Department of Alcohol and Drug Programs (Drug Medi-Cal Program), Managed Risk Medical Insurance Board, State Department of Developmental Services, State Department of State Hospitals, and Department of Child Support Services shall submit to the Department of Finance for its approval all assumptions underlying all estimates used to develop the departments' budgets by September 10 of each year, and those assumptions, as revised by, March 1 of the following year.

(b) The Department of Finance shall approve, modify, or deny the assumptions underlying all estimates within 15 working days of their submission. If the Department of Finance does not modify, deny, or otherwise indicate that the assumptions are open for consideration pending further information submitted by the department by that date, the assumptions as presented by the submitting department shall be deemed to be accepted by the Department of Finance as of that date.

(c) Each department or board described in subdivision (a) shall also submit an estimate of expenditures for each of the categorical aid programs in its budget to the Department of Finance by

November 1 of each year and those estimates as revised by April 20 of the following year. Each estimate shall contain a concise statement identifying applicable estimate components, such as caseload, unit cost, implementation date, whether it is a new or continuing premise, and other assumptions necessary to support the estimate. The submittal shall include a projection of the fiscal impact of each of the approved assumptions related to a regulatory, statutory, or policy change, a detailed explanation of any changes to the base estimate projections from the previous estimate, and a projection of the fiscal impact of that change to the base estimate.

(d) Each department or board shall identify those premises to which either of the following applies:

(1) Have been discontinued since the previous estimate was submitted. The department or board shall provide a chart that tracks the history of each discontinued premise in the prior year, the current year, and the budget year.

(2) Have been placed in the basic cost line of the estimate package.

(e) In the event that the methodological steps employed in arriving at the estimates in May differ from those used in November of the preceding year, the department or board shall submit a descriptive narrative of the revised methodology. In addition, the estimates shall include fiscal charts that track appropriations from the Budget Act to the current Governor's Budget and May Revision for all fund sources for the prior year, current year and budget year. This information shall be provided to the Department of Finance, the Joint Legislative Budget Committee, the Health and Human Services Policy Committees, and the fiscal committees, along with other materials included in the annual May Revision of expenditure estimates.

(f) The estimates of average monthly caseloads, average monthly grants, total estimated expenditures, including administrative expenditures and savings or costs associated with all regulatory or statutory changes, as well as all supporting data provided by the department or developed independently by the Department of Finance, shall be made available to the Joint Legislative Budget Committee, the Health and Human Services Policy Committees, and the fiscal committees.

(g) On or after January 10, if the Department of Finance discovers a material error in the information provided pursuant to

this section, the Department of Finance shall inform the consultants to the fiscal committees of the error in a timely manner.

(h) The departmental estimates, assumptions, and other supporting data prepared for purposes of this section shall be forwarded annually to the Joint Legislative Budget Committee, the Health and Human Services Policy Committees, and the fiscal committees of the Legislature, not later than January 10 and May 14 by the department or board if this information has not been released earlier by the Department of Finance.

(i) The requirements of this section do not apply to the State Department of Social Services estimate or the State Department of Health Care Services' Medi-Cal Program estimate, which are governed by Sections 10614 and 14100.5, respectively.

(j) The Department of Rehabilitation shall submit assumptions and an estimate of case services expenditures for the Vocational Rehabilitation (VR) program specifically detailing the VR supported employment and work activity elements in accordance with this part, except that assumptions shall be submitted only annually, on or before March 1, and an estimate of expenditures shall be submitted only annually, on or before April 20, to the Department of Finance. The departmental assumptions and the departmental estimate of expenditures shall be forwarded annually, on or before May 14, to the Joint Legislative Budget Committee, and to the health and human services policy committees and fiscal committees of the Legislature, if this information has not been released earlier by the Department of Finance.

SEC. 77. Section 14105.19 of the Welfare and Institutions Code is amended to read:

14105.19. (a) Notwithstanding any other provision of law, in order to implement changes in the level of funding for health care services, the director shall reduce provider payments as specified in this section.

(b) (1) Except as provided in subdivision (c), payments shall be reduced by 10 percent for Medi-Cal fee-for-service benefits for dates of service on and after July 1, 2008, through and including dates of service on February 28, 2009.

(2) Except as provided in subdivision (c), payments shall be reduced by 10 percent for non-Medi-Cal programs described in Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, and Section

14105.18 of this code, for dates of service on and after July 1, 2008, through and including dates of service on February 28, 2009.

(3) For managed health care plans that contract with the department pursuant to this chapter, Chapter 8 (commencing with Section 14200), and Chapter 8.75 (commencing with Section 14591), payments shall be reduced by the actuarial equivalent amount of the payment reduction specified in this subdivision pursuant to contract amendments or change orders effective on July 1, 2008.

(4) Notwithstanding paragraphs (1) and (2), payment reductions set forth in this subdivision shall apply to small and rural hospitals, as defined in Section 124840 of the Health and Safety Code, for dates of service on and after July 1, 2008, through and including October 31, 2008.

(c) The services listed in this subdivision shall be exempt from the payment reductions specified in subdivision (b):

(1) Acute hospital inpatient services, except for payments to hospitals not under contract with the State Department of Health Care Services, as provided in Section 14166.245.

(2) Federally qualified health center services, including those facilities deemed to have federally qualified health center status pursuant to a waiver under subdivision (a) of Section 1315 of Title 42 of the United States Code.

(3) Rural health clinic services.

(4) All of the following facilities:

(A) A skilled nursing facility licensed pursuant to subdivision (c) of Section 1250 of the Health and Safety Code, except a skilled nursing facility that is a distinct part of a general acute care hospital. For purposes of this paragraph, “distinct part” has the same meaning as defined in Section 72041 of Title 22 of the California Code of Regulations.

(B) An intermediate care facility for the developmentally disabled licensed pursuant to subdivision (e), (g), or (h) of Section 1250 of the Health and Safety Code, or a facility providing continuous skilled nursing care to developmentally disabled individuals pursuant to the pilot project established by Section 14495.10.

(C) A subacute care unit, as defined in Section 51215.5 of Title 22 of the California Code of Regulations.

(5) Payments to facilities owned or operated by the State Department of State Hospitals or the State Department of Developmental Services.

(6) Hospice.

(7) Contract services as designated by the director pursuant to subdivision (e).

(8) Payments to providers to the extent that the payments are funded by means of a certified public expenditure or an intergovernmental transfer pursuant to Section 433.51 of Title 42 of the Code of Federal Regulations.

(9) Services pursuant to local assistance contracts and interagency agreements to the extent the funding is not included in the funds appropriated to the department in the annual Budget Act.

(10) Payments to Medi-Cal managed care plans pursuant to Section 4474.5 for services to consumers transitioning from Agnews Developmental Center into Alameda, San Mateo, and Santa Clara Counties pursuant to the Plan for the Closure of Agnews Developmental Center.

(11) Breast and cervical cancer treatment provided pursuant to Section 14007.71.

(12) The Family Planning, Access, Care, and Treatment (Family PACT) Waiver Program pursuant to Section 14105.18.

(d) Subject to the exception for services listed in subdivision (c), the payment reductions required by subdivision (b) shall apply to the services rendered by any provider who may be authorized to bill for the service, including, but not limited to, physicians, podiatrists, nurse practitioners, certified nurse-midwives, nurse anesthetists, and organized outpatient clinics.

(e) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this section by means of a provider bulletin, or similar instruction, without taking regulatory action.

(f) The reductions described in this section shall apply only to payments for services when the General Fund share of the payment is paid with funds directly appropriated to the department in the annual Budget Act and shall not apply to payments for services paid with funds appropriated to other departments or agencies.

(g) The department shall promptly seek any necessary federal approvals for the implementation of this section.

SEC. 78. Section 14105.191 of the Welfare and Institutions Code is amended to read:

14105.191. (a) Notwithstanding any other provision of law, in order to implement changes in the level of funding for health care services, the director shall reduce provider payments, as specified in this section.

(b) (1) Except as otherwise provided in this section, payments shall be reduced by 1 percent for Medi-Cal fee-for-service benefits for dates of service on and after March 1, 2009.

(2) Except as provided in subdivision (d), for dates of service on and after March 1, 2009, payments to the following classes of providers shall be reduced by 5 percent for Medi-Cal fee-for-service benefits:

(A) Intermediate care facilities, excluding those facilities identified in paragraph (5) of subdivision (d). For purposes of this section, “intermediate care facility” has the same meaning as defined in Section 51118 of Title 22 of the California Code of Regulations.

(B) Skilled nursing facilities that are distinct parts of general acute care hospitals. For purposes of this section, “distinct part” has the same meaning as defined in Section 72041 of Title 22 of the California Code of Regulations.

(C) Rural swing-bed facilities.

(D) Subacute care units that are, or are parts of, distinct parts of general acute care hospitals. For purposes of this subparagraph, “subacute care unit” has the same meaning as defined in Section 51215.5 of Title 22 of the California Code of Regulations.

(E) Pediatric subacute care units that are, or are parts of, distinct parts of general acute care hospitals. For purposes of this subparagraph, “pediatric subacute care unit” has the same meaning as defined in Section 51215.8 of Title 22 of the California Code of Regulations.

(F) Adult day health care centers.

(3) Except as provided in subdivision (d), for dates of service on and after March 1, 2009, Medi-Cal fee-for-service payments to pharmacies shall be reduced by 5 percent.

(4) Except as provided in subdivision (d), payments shall be reduced by 1 percent for non-Medi-Cal programs described in Article 6 (commencing with Section 124025) of Chapter 3 of Part

2 of Division 106 of the Health and Safety Code, and Section 14105.18, for dates of service on and after March 1, 2009.

(5) For managed health care plans that contract with the department pursuant to this chapter, Chapter 8 (commencing with Section 14200), and Chapter 8.75 (commencing with Section 14591), payments shall be reduced by the actuarial equivalent amount of the payment reductions specified in this subdivision pursuant to contract amendments or change orders effective on July 1, 2008, or thereafter.

(c) Notwithstanding any other provision of this section, payments to hospitals that are not under contract with the State Department of Health Care Services pursuant to Article 2.6 (commencing with Section 14081) for inpatient hospital services provided to Medi-Cal beneficiaries and that are subject to Section 14166.245 shall be governed by that section.

(d) To the extent applicable, the services, facilities, and payments listed in this subdivision shall be exempt from the payment reductions specified in subdivision (b):

(1) Acute hospital inpatient services that are paid under contracts pursuant to Article 2.6 (commencing with Section 14081).

(2) Federally qualified health center services, including those facilities deemed to have federally qualified health center status pursuant to a waiver pursuant to subsection (a) of Section 1115 of the federal Social Security Act (42 U.S.C. Sec. 1315(a)).

(3) Rural health clinic services.

(4) Skilled nursing facilities licensed pursuant to subdivision (c) of Section 1250 of the Health and Safety Code other than those specified in paragraph (2) of subdivision (b).

(5) Intermediate care facilities for the developmentally disabled licensed pursuant to subdivision (e), (g), or (h) of Section 1250 of the Health and Safety Code, or facilities providing continuous skilled nursing care to developmentally disabled individuals pursuant to the pilot project established by Section 14495.10.

(6) Payments to facilities owned or operated by the State Department of State Hospitals or the State Department of Developmental Services.

(7) Hospice services.

(8) Contract services, as designated by the director pursuant to subdivision (g).

(9) Payments to providers to the extent that the payments are funded by means of a certified public expenditure or an intergovernmental transfer pursuant to Section 433.51 of Title 42 of the Code of Federal Regulations.

(10) Services pursuant to local assistance contracts and interagency agreements to the extent the funding is not included in the funds appropriated to the department in the annual Budget Act.

(11) Payments to Medi-Cal managed care plans pursuant to Section 4474.5 for services to consumers transitioning from Agnews Developmental Center into the Counties of Alameda, San Mateo, and Santa Clara pursuant to the Plan for the Closure of Agnews Developmental Center.

(12) Breast and cervical cancer treatment provided pursuant to Section 14007.71 and as described in paragraph (3) of subdivision (a) of Section 14105.18 or Article 1.5 (commencing with Section 104160) of Chapter 2 of Part 1 of Division 103 of the Health and Safety Code.

(13) The Family Planning, Access, Care, and Treatment (Family PACT) Program pursuant to subdivision (aa) of Section 14132.

(14) Small and rural hospitals, as defined in Section 124840 of the Health and Safety Code.

(e) Subject to the exemptions listed in subdivision (d), the payment reductions required by paragraph (1) of subdivision (b) shall apply to the benefits rendered by any provider who may be authorized to bill for provision of the benefit, including, but not limited to, physicians, podiatrists, nurse practitioners, certified nurse midwives, nurse anesthetists, and organized outpatient clinics.

(f) (1) Notwithstanding any other provision of law, Medi-Cal reimbursement rates applicable to the classes of providers identified in paragraph (2) of subdivision (b), for services rendered during the 2009–10 rate year and each rate year thereafter, shall not exceed the reimbursement rates that were applicable to those classes of providers in the 2008–09 rate year.

(2) In addition to the classes of providers described in paragraph (1), Medi-Cal reimbursement rates applicable to the following classes of facilities for services rendered during the 2009–10 rate year, and each rate year thereafter, shall not exceed the

reimbursement rates that were applicable to those facilities and services in the 2008–09 rate year:

(A) Facilities identified in paragraph (5) of subdivision (d).

(B) Freestanding pediatric subacute care units, as defined in Section 51215.8 of Title 22 of the California Code of Regulations.

(3) Paragraphs (1) and (2) shall not apply to providers that are paid pursuant to Article 3.8 (commencing with Section 14126), or to services, facilities, and payments specified in subdivision (d), with the exception of facilities described in paragraph (5) of subdivision (d).

(4) The limitation set forth in this subdivision shall be applied only after the reductions in paragraph (2) of subdivision (b) have been made.

(g) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement and administer this section by means of provider bulletins, or similar instructions, without taking regulatory action.

(h) The reductions and limitations described in this section shall apply only to payments for benefits when the General Fund share of the payment is paid with funds directly appropriated to the department in the annual Budget Act, and shall not apply to payments for benefits paid with funds appropriated to other departments or agencies.

(i) The department shall promptly seek any necessary federal approvals for the implementation of this section. To the extent that federal financial participation is not available with respect to any payment that is reduced or limited pursuant to this section, the director may elect not to implement that reduction or limitation.

SEC. 79. Section 14110 of the Welfare and Institutions Code is amended to read:

14110. No payment for care or services shall be made under Medi-Cal to a medical or health care facility unless it has been certified by the department for participation, and it meets one of the following:

- (a) It is licensed by the department.
- (b) It is licensed by a comparable agency in another state.
- (c) It is exempt from licensure.
- (d) It is operated by the Regents of the University of California.

(e) It meets the utilization review plan criteria for certification or is certified as an institutional provider of services under Title XVIII of the Federal Social Security Act and regulations issued thereunder.

Nothing in this section shall preclude payments for care for aged patients in medical facilities or institutions operated or licensed by the department, or the State Department of State Hospitals, State Department of Developmental Services, State Department of Social Services, or Department of Rehabilitation.

The department shall certify facilities licensed pursuant to subdivision (e) of Section 1250 of the Health and Safety Code for participation in the program within 30 calendar days of receipt of a complete application or date of licensure, whichever is greater, if the facility meets all the requirements for certification. The department for claims purposes only, shall enroll facilities which meet all certification requirements within 30 calendar days of the date of certification or 60 calendar days of licensure, whichever is greater.

SEC. 80. Section 15650 of the Welfare and Institutions Code is amended to read:

15650. (a) Investigation of reports of known or suspected instances of abuse in long-term care facilities shall be the responsibility of the bureau, the local law enforcement agency, and the long-term care ombudsman program.

(b) Investigations of known or suspected instances of abuse outside of long-term care facilities shall be the responsibility of the county adult protective services agency, unless another public agency is given responsibility for investigation in that jurisdiction, and the local law enforcement agency.

(c) The investigative responsibilities set forth in this section are in addition to, and not in derogation of or substitution for, the investigative and regulatory responsibilities of licensing agencies, such as the State Department of Social Services Community Care Licensing Division and the State Department of Health Services Licensing and Certification Division and their authorized representatives.

(d) Other public agencies involved in the investigation of abuse or advocacy of respective client populations, or both, include, but shall not be limited to, the State Department of State Hospitals and the State Department of Developmental Services. Other public

agencies shall conduct or assist in, or both, the investigation of reports of abuse of elder and dependent adults within their jurisdiction in conjunction with county adult protective services, local ombudsman programs and local law enforcement agencies.

(e) Each county adult protective services agency shall maintain an inventory of all public and private service agencies available to assist victims of abuse, as defined by Section 15610.07. This inventory shall be used to refer victims in the event that the county adult protective services agency cannot resolve the immediate needs of the victim, and to serve the victim on a long-term, followup basis. The intent of this section is to acknowledge that limited funds are available to resolve all suspected cases of abuse reported to a county adult protective services agency.

(f) Each local ombudsman program shall maintain an inventory of all public and private agencies available to assist long-term care residents who are victims of abuse, as defined by Section 15610.07. This inventory shall be used to refer cases of abuse in the event that another agency has jurisdiction over the resident, the abuse is verified and further investigation is needed by a law enforcement or licensing agency, or the program does not have sufficient resources to provide immediate assistance. The intent of this section is to acknowledge that ombudsman responsibility in abuse cases is to receive reports, determine the validity of reports, refer verified abuse cases to appropriate agencies for further action as necessary, and follow up to complete the required report information. Other ombudsman services shall be provided to the resident, as appropriate.

SEC. 81. Section 15658 of the Welfare and Institutions Code is amended to read:

15658. (a) A written abuse report required by this chapter, shall be submitted in one of the following ways:

(1) On a form adopted by the State Department of Social Services after consultation with representatives of the various law enforcement agencies, the California Department of Aging, the State Department of Developmental Services, the State Department of State Hospitals, the bureau, professional medical and nursing agencies, hospital associations, and county welfare departments. These reporting forms shall be distributed by the county adult protective services agencies and the long-term care ombudsman programs. This reporting form may also be used for documenting

the telephone report of a known or suspected instance of abuse of an elder or dependent adult by the county adult protective services agency, local ombudsman program, and local law enforcement agencies.

(2) Through a confidential Internet reporting tool, if the county or long-term care ombudsman program chooses to implement such a system. This Internet reporting tool shall be developed and implemented in a manner that ensures the confidentiality and security of all information contained in the reports, pursuant to the confidentiality standards set forth in Sections 10850, 15633, and 15633.5.

(A) A county or long-term care ombudsman program that chooses to implement this system shall report to the Assembly Committee on Aging and Long-Term Care, the Assembly Committee on Human Services, the Senate Committee on Human Services, the Assembly Committee on Public Safety, and the Senate Committee on Public Safety one year after full implementation. The report shall include changes in the number of mandated reporters reporting through the confidential Internet reporting tool, changes in the number of abandoned calls, and any other quantitative or qualitative data that indicates the success, or lack thereof, in employing a confidential Internet reporting tool to better protect the safety and financial security of elder and dependent adults.

(B) Information sent and received through the confidential Internet reporting tool shall be used only for its intended purpose and shall be subject to the same confidentiality and privacy requirements that govern nonelectronic transmission of the same information, and that are set forth in Sections 10850, 15633, and 15633.5.

(b) The form required by this section and the confidential Internet reporting tool, if implemented, shall contain the following items:

- (1) The name, address, telephone number, and occupation of the person reporting.
- (2) The name and address of the victim.
- (3) The date, time, and place of the incident.
- (4) Other details, including the reporter's observations and beliefs concerning the incident.
- (5) Any statement relating to the incident made by the victim.

(6) The name of any individuals believed to have knowledge of the incident.

(7) The name of the individuals believed to be responsible for the incident and their connection to the victim.

(c) (1) Each county adult protective services agency shall report to the State Department of Social Services monthly on the reports received pursuant to this chapter. The reports shall be made on forms adopted by the department. The information reported shall include, but shall not be limited to, the number of incidents of abuse, the number of persons abused, the type of abuse sustained, and the actions taken on the reports. For purposes of these reports, sexual abuse shall be reported separately from physical abuse.

(2) The county's report to the department shall not include reports it receives from the long-term care ombudsman program pursuant to subdivision (d).

(3) The department shall refer to the bureau monthly data summaries of the reports of elder and dependent adult abuse, neglect, abandonment, isolation, financial abuse, and other abuse it receives from county adult protective services agencies.

(d) Each long-term care ombudsman program shall report to the Office of the State Long-Term Care Ombudsman of the California Department of Aging monthly on the reports it receives pursuant to this chapter and shall send a copy to the county adult protective services agency. The Office of the State Long-Term Care Ombudsman shall submit a summarized quarterly report to the department based on the monthly reports submitted by local long-term care ombudsman programs. The reports shall be on forms adopted by the department and the Office of the State Long-Term Care Ombudsman. The information reported shall include, but shall not be limited to, the number of incidents of abuse, the numbers of persons abused, the type of abuse, and the actions taken on the reports. For purposes of these reports, sexual abuse shall be reported separately from physical abuse.

SEC. 82. The sum of one thousand dollars (\$1,000) is hereby appropriated from the General Fund to the State Department of State Hospitals for administration.

SEC. 83. Any section of any act enacted by the Legislature during the 2012 calendar year that takes effect on or before January 1, 2013, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and

renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2012 calendar year and takes effect on or before January 1, 2013, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

SEC. 84. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

Approved _____, 2012

Governor